ANNUAL REPORT 2013

Labour Relations Board

BRITISH COLUMBIA

LABOUR RELATIONS BOARD

2013
ANNUAL REPORT

Ministry of Jobs, Tourism and Skills Training and
Minister Responsible for Labour
Honourable Shirley Bond, Minister

February 28, 2014

The Honourable Shirley Bond
Minister of Jobs, Tourism and Skills Training
and Minister Responsible for Labour
Parliament Buildings
Victoria, B.C.
V8V 1X4

Dear Honourable Minister:

RE: Labour Relations Board 2013 Annual Report

I am pleased to forward the 2013 Annual Report of the Labour Relations Board for the year ending December 31, 2013. This Report has been prepared for your review pursuant to Section 157(2) of the *Labour Relations Code*.

Yours truly,
LABOUR RELATIONS BOARD

Brent Mullin
Chair

Enclosure

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CHAIR'S MESSAGE

Since 2002, the Board's consistent focus has been to take all the steps we can in order to contribute to the future and success of British Columbia. This theme has manifested itself in various initiatives the Board has taken since 2002 including:

- substantively interpreting and applying the critical 1993 and 2002 amendments to the Code (for a summary of this work, see the Chair's Messages in the 2004-2006 and 2009 Annual Reports);

- the innovative work of the Board's Mediation Division assisting the parties to pursue practical, problem-solving approaches and outcomes (see the Chair's Messages in the 2007 and 2010 Annual Reports); and

- the procedural reform of the Board's adjudications through the Timelines Regulation requiring Board cases to be completed within 180 days (see the Chair's Messages in the 2008 and 2012 Annual Reports).

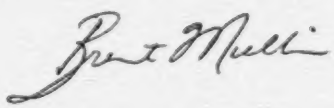
The Board must continue with this impetus substantively, procedurally, and mediatively.

There are two contexts which make this particularly important. The first is the potential that the province is on the verge of a period of economic growth in its resource industries. We want labour relations under the Code to contribute to that as productively as possible.

The second context is the need to make the delivery of legal services in the province as accessible as possible. That concern has led to reforms to the Court and administrative tribunal systems in the province. The Board has contributed to that reform in its clustering with the Employment Standards Tribunal and through the Board's timelines requirement.

The Board needs to continue to be at the leading edge of these kinds of innovations. Continued reform of this nature is vital to ensure that labour relations contribute to the future growth and success of the province. This will require forward-looking leadership and action, and the ability to move beyond the kind of inertia generated by some aspects of the existing culture of labour relations (see the 2008 Chair's Message).

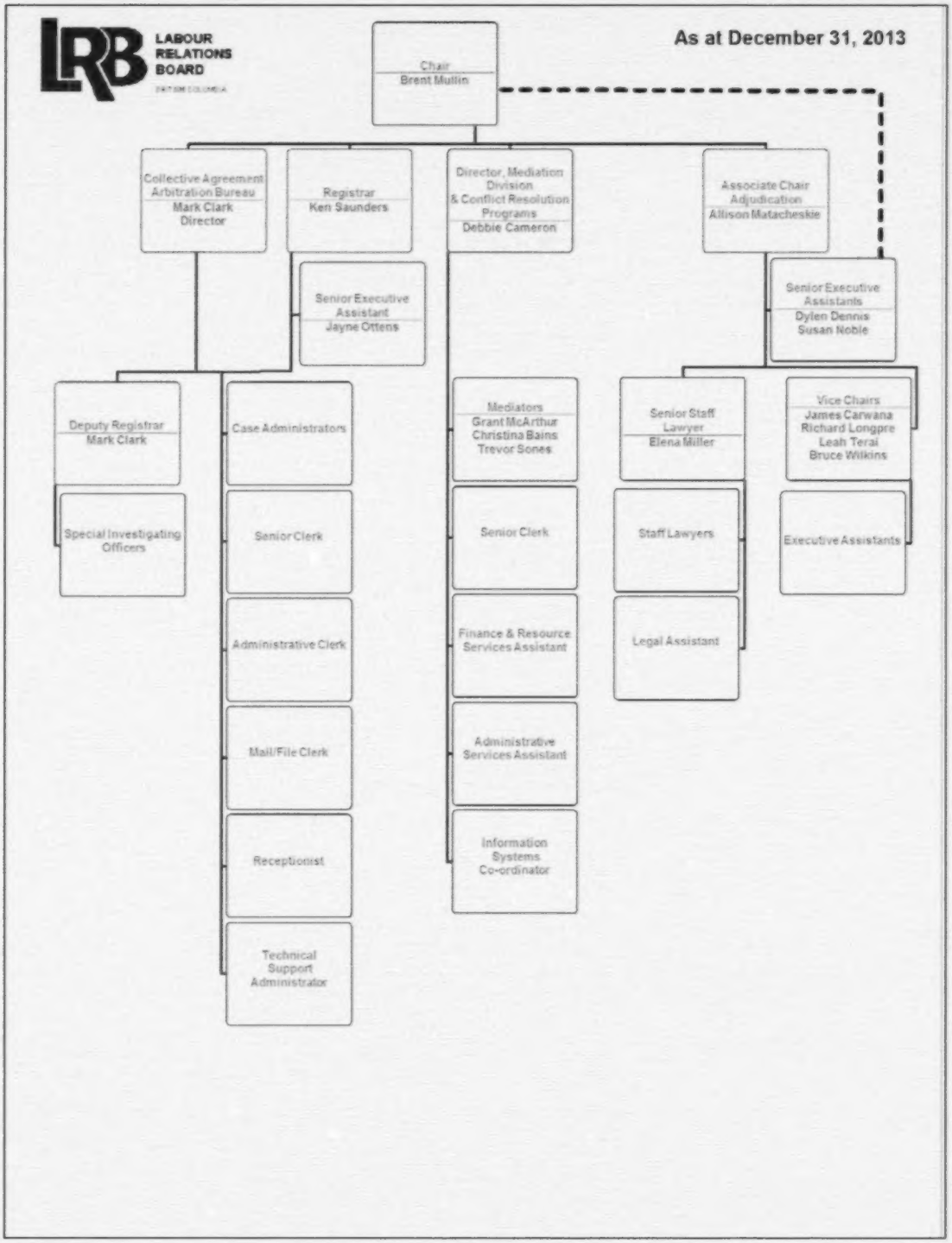
In that regard, we must continue to push for reform where reform is needed. In the context of labour relations under the Code, that reform is most critically required in respect to the arbitration system under Part 8 of the Code. The arbitration system must respond in a more timely and effective manner to the needs of the relationships between employers and unions under collective agreements (see the 2012 Chair's Message). To that end, I suggested in the previous Chair's Message a timelines reform similar to that which occurred at the Board. Whether or not that is the particular step which should be taken, we must move past old habits and renew the system of dispute resolution under collective agreements to give the parties the tools they need to pursue success.



Brent Mullin
Chair

LABOUR RELATIONS BOARD
BRITISH COLUMBIA

As at December 31, 2013



I. THE BOARD

A. GENERAL OVERVIEW

The *Labour Relations Code* (the "Code") establishes the Labour Relations Board. The statute grants the Board exclusive jurisdiction to hear and determine applications and complaints under the Code and to make orders under the Code that it deems appropriate.

The Code governs all aspects of collective bargaining amongst the provincially-regulated employers and employees to whom the Code applies. This includes the acquisition of collective bargaining rights, the process of collective bargaining, the settlement and regulation of disputes in both the public and private sectors, and the regulation of the representation of persons by their bargaining agents. In addition to administering and enforcing the Code, the Board is charged with the responsibility for labour relations matters under several other statutes.

In carrying out its mandate, the Board must have regard to the manner in which it performs its duties under the Code. These are set out in Section 2:

2. The board and other persons who exercise powers and perform duties under this Code must exercise the powers and perform the duties in a manner that
(a) recognizes the rights and obligations of employees, employers and trade unions under this Code,
(b) fosters the employment of workers in economically viable businesses,
(c) encourages the practice and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees,
(d) encourages cooperative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing workforce skills and developing a workforce and a workplace that promotes productivity,
(e) promotes conditions favourable to the orderly, constructive and expeditious settlement of disputes,
(f) minimizes the effects of labour disputes on persons who are not involved in those disputes,
(g) ensures that the public interest is protected during labour disputes, and
(h) encourages the use of mediation as a dispute resolution mechanism.

In order to accomplish this expansive mandate, the Code establishes the Board's administrative structure. Section 115(1) of the Code provides that the Board shall consist of a Chair, Vice Chairs, and as many other members, equal in number, representative of employers and employees respectively, as shall be considered necessary and appointed by the Lieutenant Governor in Council. The Chair is the head of the Board. The Chair designates one of the Vice Chairs to act as Associate Chair, Adjudication, one to act as Associate Chair, Mediation and one to act as the Registrar. The Chair, along with the Associate Chair, establishes panels to proceed with applications or complaints under the Code. Panels may be composed of the Chair, Vice Chair(s), and members in accordance with Section 117(5) of the Code.

B. OFFICE OF THE CHAIR

As head of the Board, the Chair has the ultimate responsibility to oversee the administration of the Board and the Code. The Associate Chair of Adjudication, Associate Chair of Mediation, and the Registrar report directly to the Chair. The Chair may sit as a panel, either with or without Vice Chairs and/or other members. The Chair presides at proceedings of the Board and on all panels of which the Chair is a member.

C. REGISTRY

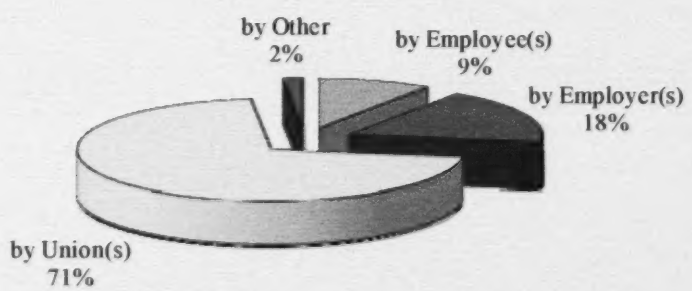
Every application received by the Board is processed through the Registrar's office. Administration and progress of each case is overseen by the Registry until the matter is finally disposed of. Three Case Administrators are responsible for initiation of applications and the conduct of files.

Processing of all applications through the Registry enables the Board to utilize computerized case monitoring/management to achieve effective and speedy processing of cases.

Legislated time frames, combined with established Board policies and procedures, result in approximately 57 percent of applications receiving expedited processing. Part 5 applications can require adjudication within 24 hours. Certain unfair labour practice complaints require commencement of a hearing within three days. Others such as certification and decertification applications are normally processed within approximately one week of receipt.

On certification and decertification applications, Case Administrators are responsible for completing all necessary procedures before files are forwarded to adjudication for a hearing. This includes written notification to parties, initiation of investigations by Industrial Relations Officers (IROs) and requests for written submissions. Accordingly, administrative staff must be familiar with legal principles and Board case law and policies.

2013 Applications and Complaints by Type of Applicant



Informal dispute resolution is an important part of the Board's operations and is used extensively during the processing of applications and complaints. Under the direction of the Deputy Registrar, cases requiring immediate informal dispute resolution are assigned to Special Investigating Officers (SIOs). The vast majority of their caseload involves expedited matters such as unfair labour practice complaints, certifications, and Part 5 applications dealing with strikes, lockouts and picketing.

Assistance by SIOs through the informal process can be obtained by the parties or the adjudicator at any stage of proceedings, including case management meetings and after formal hearings have commenced.

These informal settlement discussions are on a "without prejudice" basis. That is to say, a party cannot subsequently raise what was said in such discussions in any formal proceeding. However, settlement agreements reached on issues during the informal proceedings are binding on the parties and will be enforced by the Board.

The informal process achieves a very high success rate. As shown in Table 9 of the statistical tables, approximately 70 percent of unfair labour practice complaints and Part 5 complaints referred to SIOs are settled.

This informal dispute resolution process helps the Board and the parties make more effective use of resources and personnel, and substantially reduces the time needed to conclude cases, thus reducing expenditures. In addition, by fostering negotiated settlements between the parties, the process furthers the purposes of the Code by minimizing, where possible, decisions imposed by a third party.

Similar valuable services are provided throughout the Province by Industrial Relations Officers (IROs) of the Employment Standards Branch of the Ministry of Jobs, Tourism and Skills Training and Minister Responsible for Labour. For example, every application for certification or decertification requires a report by an IRO.

Both SIOs and IROs also provide considerable assistance through written reports which may involve fact finding, narrowing the issues to be adjudicated, and interviewing individual employees and employers on a wide variety of issues.

In addition to administering the Registry, the Registrar, as a Vice Chair of the Board, may chair or sit as a member of an adjudication panel, and as a sole panel member, may dispose of certain applications where summary disposition is appropriate. This leads to the speedy disposition of many types of applications.

The Deputy Registrar has responsibility for administering the informal process and also deals with Section 12, duty of fair representation applications, most of which require additional information before the Registry can process them.

Section 122(3) of the Code requires the Board to provide an Information Officer. The Information Officer's responsibilities to date have encompassed two main areas: handling incoming inquiry calls and preparing written material for the public and the labour relations community.

The Information Officer deals with approximately 4000 phone calls and email enquiries per year from employers, unions, individual employees and media representatives.

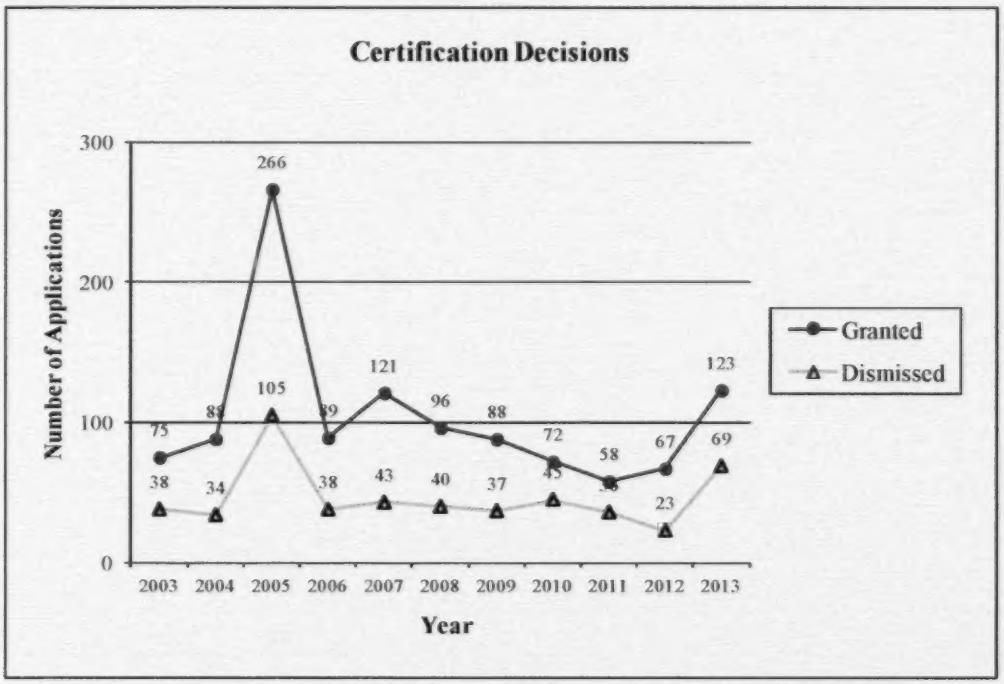
The Board's publications include the *Employer's Guide to the Union Certification Process*. This plain language guide is sent to employers along with the Notice of Certification Application, to clarify their rights and responsibilities under the Code. The same day the Information Officer sends a letter to employers who have not previously been certified, offering to answer any questions about the Code or certification procedures before the hearing date or on the morning of the certification hearing.

A companion publication, *Questions and Answers for Employees Regarding the Union Certification Process,* has been developed following an extensive consultation process with the labour relations community. It provides information to employees in plain language concerning the certification process.

Another publication prepared by the Information Officer, the Board's Practice Manual, has been in use since April, 1995.

The Board's website was officially launched in late 1999. The site includes information concerning the Board's processes, hearing schedules and recent Board decisions. The site is a work-in-progress and the Board welcomes input from the public to help improve the information provided. The website address is www.lrb.bc.ca.

The Board has also prepared a *Section 12 Guide* explaining the Board's approach to Section 12 complaints. It is available on our website under "Information Bulletins" or upon request in written form.



D. COLLECTIVE AGREEMENT ARBITRATION BUREAU

Effective July 5, 2002, and pursuant to the *Labour Relations Code Amendment Act, 2002*, the Collective Agreement Arbitration Bureau was brought under the administration of the Labour Relations Board. Pursuant to Section 83(1) of the Code, the Chair designated the Board's Deputy Registrar, Mark Clark, as Director of the Bureau.

The primary function of the Bureau is to appoint arbitrators where one of the parties seeks an expedited form of arbitration, where the parties seek consensual mediation/arbitration, or where there is a failure to appoint or constitute an arbitration board by one of the parties. In addition, the Bureau also appoints settlement officers to assist the parties in resolving grievances filed under collective agreements. The Labour Relations Board offers the services of its Special Investigating Officers and Mediators as settlement officers to assist the parties in resolving the grievances prior to an arbitrator's appointment by the Bureau.

Since July 5, 2002, applications filed with the Bureau for the appointment of arbitrators and/or settlement officers are processed through the Registry of the Labour Relations Board. The Registry's Case Administrators are generally responsible for the day-to-day administrative processing of the applications, with the Director responsible for the selection/appointment of the arbitrator in each case.

The Bureau, through its Director, must also maintain a register of arbitrators. A Joint Advisory Committee, as appointed by the Minister, must advise the Director on the training and education of arbitrators and settlement officers, research and publication of information about arbitrations, and establishment and maintenance of a register of arbitrators.

The Joint Advisory Committee comprises two representatives of unions, two representatives of employers and two representatives of arbitrators, along with the Director who is the chair of the committee.

E. ADJUDICATION DIVISION

The Adjudication Division is responsible for hearing and deciding applications brought under the Code. The Division also attempts wherever possible to settle disputes without formal adjudication through case management and alternative dispute resolution.

Issues requiring adjudication include applications for the acquisition and termination of bargaining rights; unfair labour practice complaints; duty of fair representation complaints by individual employees; common and successor employer applications; reviews of arbitration awards; complaints respecting strikes, lockouts, picketing and other conduct regulated by Part 5 of the Code, including the replacement worker and essential services provisions; and applications for reconsideration of Board decisions.

On average, close to 800 cases are adjudicated each year. A comparison of cases assigned for adjudication and adjudicated for the past several years is set out in the accompanying table. In 2013, the Adjudication Division published 241 decisions. Summaries of some of the noteworthy decisions can be found in Section III of this Report.

A major portion of the Division's workload continues to be adjudication of expedited applications (including certifications, unfair labour practice and Part 5 applications). During 2013, expedited applications comprised about 72 percent of cases received in the Board's major adjudication areas.

As of December 31, 2013, the Board had 4 Vice Chairs and 3 Staff Lawyers.

	2004*	2005*	2006*	2007*	2008*	2009*	2010	2011	2012	2013
Cases Assigned for Adjudication	1091	823	735	815	638	679	634	734	1291	715
Cases Adjudicated	922	1006	781	782	664	672	642	697	1344	718
Cases Outstanding at Year End	409	226	180	213	187	194	186	223	170	167

* Figures adjusted after publication of *LRB Annual Report* for noted year(s).

F. MEDIATION DIVISION

The Mediation Division offers assistance in collective bargaining, facilitation of joint sessions which enable employers and trade unions to improve their working relationship, and collective bargaining information. The head of the Mediation Division is the Director of Mediation and Conflict Resolution Services.

Information about the services available from the Mediation Division can be obtained via the Board's website (www.lrb.bc.ca). This information includes various practice guidelines on the sections of the Code administered by the Mediation Division.

Collective Bargaining Mediation (Sections 55 and 74)

Collective bargaining mediation involves assistance to employers and unions to conclude the terms of first or renewal collective agreements. Mediators utilize a variety of techniques in an effort to assist the parties to reach mutual agreement. In certain cases, the mediator may issue recommendations for settlement.

Most mediation appointments are made under Section 74 of the Code and involve the renewal of existing collective agreements. A lesser number of first collective agreement mediator appointments are made under Section 55.

Section 55 is specific to first collective agreements and confers on the Mediator greater responsibility for mediation outcomes within tightly prescribed time frames. Access to this provision can only be gained if the trade union has taken a strike vote and a majority of the employees have voted in favour of a strike.

In 2013 Board mediators were appointed to 96 cases under Section 74 and 7 cases under Section 55. Mediators were also involved in 32 cases carried over from previous years.

Essential Services (Section 72)

The mediation of essential services in certain disputes involving the health, safety or welfare of the residents of British Columbia is also part of the mandate of the Mediation Division.

Conflict Management

The Mediation Division provides conflict management initiatives, not only in keeping with its mandate under the Code, but also with a view to designing individualized and relevant programs. The focus of the programs places greater emphasis on the analysis of conflict and its ongoing management in the workplace.

At the joint request of employers and trade unions, the Mediation Division consults with the parties in an effort to understand the nature and role of conflict in the parties' organization. Current methods of dispute resolution are also examined in the context of the organizational culture within which they operate. The Mediation Division works with the stakeholders to design and implement conflict management processes that focus on systemic change.

Guidelines used in the design process include: stakeholder participation, the adoption of preventative methods of alternative dispute resolution including training in interest based problem solving; the use of interest based and rights based processes; and promotion of dispute resolution throughout all levels of the organization. Openness and broad-based participation are encouraged and emphasis is also placed on the importance of feedback and continuous self-evaluation.

Relationship Enhancement

One of the forums for exploring conflict and designing conflict management systems has been the Relationship Enhancement Program "REP". The program originally designed as a two-day exploratory retreat, has been refocused to place greater emphasis on skills in effective communication and interest based problem solving.

In a preliminary assessment, the Mediation Division determines if the parties are committed to make the changes needed in their relationship to foster a more positive climate in the workplace. The assessment is conducted through various forms of information gathering, including confidential interviews, meetings, surveys, and/or focus group discussions. Following the initial assessment, a representative sampling of the stakeholders attends a two or three-day session conducted away from the workplace. Two mediators normally facilitate the session. Participants receive skills training, identify conflicts affecting their relationship, and collectively develop strategies to address and manage the identified conflicts. These strategies take the form of written action plans with specific goals, time frames for achieving the goals and assignment of specific individuals who are responsible for ensuring that action plans are carried out.

The program has been modified to place greater emphasis on monitoring and follow up, based on research gathered in cooperation with Dr. Tom Knight at the UBC Sauder School of Business.

Labour Management Consultation Committees

Section 53 of the Code requires employers and unions to establish joint consultation committees to promote the cooperative resolution of workplace issues. Using some of the same conflict management techniques described above, the Mediation Division offers assistance to employers and unions in meeting this obligation. Assistance is offered for the establishment of new committees and/or improvement in the effectiveness of existing committees. These sessions are usually scheduled for half a day to a maximum of one day, depending on the needs of the parties.

Mediation Process Workshop

Based on broad consultations with the Labour Relations Community for the purpose of exploring avenues to enhance problem solving capacity, the Mediation Division developed a three-day workshop curriculum on mediation process.

The workshop's foundation is based on a collaborative learning model featuring multiple perspectives on subject material. Equal numbers of management and union representatives registered and, given demand, further sessions are anticipated.

G. ADMINISTRATION

Information Systems

The principal computer applications contained on the in-house computers run in the following areas: case management, word processing, office automation and end user computing, statistical collection and distribution, and computer aided research.

Finance and Administration

The Finance and Administration Department is responsible for human resource matters including recruitment, payroll and benefits administration, financial management including budget, accounts payable/accounts receivable and is also responsible for all security and facilities matters.

Office and Technical Support

All Board departments are ably assisted in the performance of their duties by various office and technical support staff. These include technical support persons, executive assistants and administrative clerk support personnel.

II. BOARD MEMBERS AND MEDIATORS

As of December 31, 2013, the Board consisted of the following members:

EXECUTIVE

BRENT MULLIN, *Chair*

Brent Mullin's education includes a B.A. from the University of Victoria, an M.A. from Queen's University at Kingston, Ontario, and an LL.B. from the University of British Columbia. From 1983 to 1992 he practised labour relations, employment and human rights law in Vancouver, British Columbia at Russell & DuMoulin (now Fasken Martineau). From 1992 to 1998 he served as a Vice Chair at the British Columbia Labour Relations Board, then returned to the practice of labour law at Fasken Martineau DuMoulin. In January 2002, he was appointed Chair of the British Columbia Labour Relations Board and in August 2002, he was also appointed Chair of the Employment Standards Tribunal.

ALLISON MATACHESKIE, *Associate Chair, Adjudication*

Allison Matacheskie received her LL.B from the University of Ottawa in 1989. She practiced labour law exclusively representing unions with the exception of two periods when she practiced criminal law. From 1992 until 1994 she was crown counsel prosecuting at the provincial court level and from 2002 until 2004, she again worked for the Ministry of Attorney General as a special assignment prosecutor. In January 2004, she was appointed as a Vice Chair and in February 2010, she became the Registrar of the Labour Relations Board. In June 2012, she was appointed as Associate Chair, Adjudication.

KEN SAUNDERS, *Vice Chair and Registrar*

Ken Saunders obtained a Bachelor of Arts degree from Simon Fraser University in 1987 and a Bachelor of Law degree from the University of British Columbia in 1990. Following graduation, he acted as Assistant Director of the Hospitality Industrial Relations Employers' Association where he was responsible for grievance arbitration and Labour Relations Board matters. In 1996, he joined the Community Social Services Employers' Association until his appointment as a Vice Chair in October 2000. At CSSEA he headed the Dispute Resolution and Research Services Department and acted on behalf of member agencies in Labour Relations Board, Employment Standards, Human Rights and collective agreement arbitration proceedings. On October 11, 2000, Ken was appointed as a Vice Chair of the Labour Relations Board. In June 2012, he was appointed Registrar.

VICE CHAIRS

JAMES CARWANA, *Vice Chair*

James Carwana has a B.A. and LL.B. from the University of Toronto. He was called to the Bar of British Columbia in 1985 and practiced labour relations, employment, and education law in Vancouver for over 25 years. During his time in private practice, Jim represented both employers and employees while working at Campney & Murphy, Harris & Company and Coutts Pulver. Jim has acted as counsel before the Labour Relations Board, and other tribunals, and all levels of court. He was appointed as a Vice-Chair effective May 31, 2012.

RICHARD LONGPRE, *Vice Chair*

Richard Longpre obtained his B.Com degree from the University of British Columbia in 1976. He bargained collective agreements for Noranda in Ontario, Saskatchewan and B.C. until 1981 when he started as a BC provincial mediator. From 1985 to 1996, he was a Vice Chair at the Labour Relations Board and Industrial Relations Council. Following a few years as an independent arbitrator and mediator, he became the Vice President of the Canadian Film and Television Producers Association in B.C. In 2001, he was appointed the Assistant Deputy Minister in the Industrial Relations Ministry. Since 2004, he consulted in various areas of labour relations including the Program Director for the B.C. Container Truck Dispute Resolution Program for the Ministry of Transportation. He was appointed Vice Chair in September 2012.

LEAH TERAI, *Vice Chair*

Leah Terai obtained a B.A. and L.L.B. from the University of British Columbia. She articled and was called to the Bar in 1990 while working at Rankin & Company. In 1993 she began the practice of labour law with Laughton & Company, representing unions before various tribunals and at court. She was appointed as a Vice-Chair in June 2012.

BRUCE WILKINS, *Vice Chair*

Bruce Wilkins was introduced to labour relations while studying at the University of Toronto for his B.A. in philosophy. While attending the University of Toronto and working at the library, he became a steward and then the Chief Steward of CUPE Local 1230. After obtaining his B.A. he went to law school and graduated from Queens University Law School in 1997. He articled at Victory Square Law Office, a firm which exclusively represents unions, and was called to the Bar in 1998. He worked for two years as Crown Counsel in traffic and criminal prosecutions. He returned to the labour relations community as in-house counsel for the Health Sciences Association of British Columbia, representing the union in arbitrations, Labour Relations Board proceedings and professional discipline hearings. He was appointed as a Vice Chair in May 2007.

MEDIATORS

DEBBIE M.L. CAMERON, *Director, Mediation Division and Conflict Resolution Programs*

Debbie Cameron is the Director of Mediation and Conflict Resolution Programs at the BC Labour Relations Board. Ms. Cameron started at the LRB in 1994 as a Mediator, and in 2007, became the Director of Conflict Resolution Programs. Ms. Cameron assumed responsibility for the Mediation Division on February 1, 2010. Prior to the LRB, Ms. Cameron was the Coordinator of Hospitals for the B.C. Nurses' Union responsible for collective agreement negotiation and administration covering approximately 17,000 nurses in BC. Ms. Cameron has a Certificate in Conflict Resolution from the Justice Institute of British Columbia, a Certificate in Intercultural Studies from the University of British Columbia, an M.A. in Conflict Analysis and Management from Royal Roads University, and a Provincial Instructor Diploma from Vancouver Community College.

GRANT McARTHUR, *Mediator*

Grant McArthur graduated from the University of British Columbia in 1973. He worked for the Hospital Employees' Union for approximately five years. He then joined the Labour Relations Board as a Special Investigating Officer in 1980 and left to work for Canada Post in late 1984. Grant joined B.C. Rail in 1986, where he worked in labour relations and as Manager of Personnel Services for three years prior to returning to the Board in 1992.

CHRISTINA BAINS, *Mediator*

Christina Bains is a Mediator with the British Columbia Labour Relations Board. Christina has a B.A. in Sociology from Simon Fraser University and a Human Resources Post-Diploma from the British Columbia Institute of Technology. Christina spent several years working in Employee Relations for B.C. Ferries providing direct support to approximately 1,000 employees, facilitating workshops as well as developing outreach initiatives to build relationships with various public and private sector groups on Vancouver Island and the mainland to support province wide recruitment. Christina has also spent some time with the British Columbia Post Secondary Employers' Association, the Health Employers Association of British Columbia and the British Columbia Government Employees' Union where she was involved in several public sector and private sector negotiations.

TREVOR SONES, *Mediator*

Trevor Sones is a Mediator with the B.C. Labour Relations Board. Trevor has an Honours B.A. in Criminology with a concentration in Law from Carleton University, in addition to an M.A. in Dispute Resolution from the University of Victoria. While specializing in the field of Alternative Dispute Resolution, Trevor has published a book and a peer-reviewed journal article on the role of conflict and conflict resolution processes.

III. HIGHLIGHTS OF BOARD DECISIONS

In 2013, the Adjudication Division published 241 numbered decisions. The following are summaries of some noteworthy decisions issued during the year. These summaries are provided for interest only, and they do not constitute legal or authoritative interpretations of the decisions in question. The full text of these and other Board decisions are available on its website (www.lrb.bc.ca).

Certain Employees of Sidhu & Sons Nursery Ltd., BCLRB No. B26/2013 (Leave for Reconsideration of No. B28/2012 denied), 224 C.L.R.B.R. (2d) 105 - The Union applied under Section 141 of the Code for leave and reconsideration of the Board's decision which dismissed the Union's complaints under the Code against Mexico on the basis of immunity arising from the *State Immunity Act*, R.S.C. 1985, c. S-18. The majority dismissed the application for leave and reconsideration. The minority found that the Board had jurisdiction to hear the complaints because the commercial activity exemption to immunity applied to the Union's complaints against Mexico.

City of Campbell River, BCLRB No. B30/2013 (Leave for Reconsideration of BCLRB No. B198/2012), 224 C.L.R.B.R. (2d) 298 - The Employer applied under Section 141 of the Code for leave and reconsideration of an original decision dismissing the Employer's application for a declaration under Section 139 that its crime analyst position is excluded from the bargaining unit. The reconsideration panel found that the existence of a potential conflict of interest concern is not dependent upon the crime analyst being a supervisor of the employees in the bargaining unit. The potential conflict of interest concern arose from the crime analyst's investigation of potential criminal matters involving employees and the impact such criminal matters can have on continued employment with the Employer. As material portions of the reasoning leading to the conclusion and outcome of the original decision were inconsistent with the principles expressed or implied in the Code, the original decision was overturned and the matter was remitted to a new panel for a fresh consideration.

American Cartage Ltd., BCLRB No. B33/2013, 222 C.L.R.B.R. (2d) 272 - The Union filed several applications (common employer, successorship, unfair labour practice complaint). One of the entities alleged to be a common employer with the other respondents was federally certified. The Union did not hold a provincial certification with respect to any of the respondents and had instituted proceedings before the Canada Industrial Relations Board (CIRB) that the respondents alleged overlapped with the matters the Union was seeking to raise before the Board. The Union claimed the Employer had lost its federal status as an extra-provincial trucking company and argued the federal certification was no longer operative. The Board found that a determination regarding the federal certification ought to be first sought from the CIRB, as it was that tribunal that made the certification order. The Union must raise the issue of whether the Union's existing certification remains operative, including the Union's allegations regarding a change, with the CIRB. The Board deferred consideration of the Union's applications until the CIRB had determined matters regarding the federal certification.

Hospitality Industrial Relations, BCLRB No. B42/2013 (Leave for Reconsideration of BCLRB No. B257/2012), 224 C.L.R.B.R. (2d) 227 - Where there is strong collective agreement language establishing that the parties have agreed to industry or master

bargaining and there is no language in the parties' collective agreement providing that a party can unilaterally amend the agreed upon bargaining structure, amendment of the bargaining structure will require either mutual agreement of the parties or an application to the Board.

Certain Employees of Sidhu & Sons Nursery Ltd., BCLRB No. B54/2013 (Leave for Reconsideration of BCLRB No. B194/2012), 224 C.L.R.B.R. (2d) 132 - Mexico, the Employer, Certain Employees and the Union each applied under Section 141 of the Code for leave and reconsideration of the Board's decision relating to whether the Board would hear voluntary testimony from former employees of the Mexican Consulate in Vancouver in relation to a decertification application. The Union alleged that Mexico had improperly interfered such that the representation vote was unlikely to disclose the employees' true wishes. The original panel found that the voluntary testimony of former employees of the Mexican Consulate in Vancouver was inadmissible on the basis of the *Vienna Convention on Consular Relations* and that the *State Immunity Act* did not preclude the Board from considering other admissible evidence and making findings of fact concerning the actions of Mexico when considering allegations of improper interference under Section 33(6)(b) of the Code. On reconsideration, the majority found the original panel may consider the Union's allegations of improper interference against Mexico for purposes of Section 33(6)(b) of the Code. Further, the majority found the voluntary testimony of the former employees of the Mexican Consulate does not offend the principle of state immunity and therefore could be considered by the original panel. The original panel was directed to proceed to a final decision on the decertification application.

Michael Alfred David Thoms, BCLRB No. B74/2013 (Leave for Reconsideration of BCLRB No. B12/2013), 225 C.L.R.B.R. (2d) 295 - Thoms applied under Section 141 for leave and reconsideration of the original decision which dismissed his application for exemption from membership in the Union on the basis of his religious beliefs under Section 17 of the Code. The original decision weighed and balanced Thoms' knowledge and appreciation for the immediate advantages of union membership and union achievements against his personal religious convictions. The reconsideration panel found the requirements and test in Section 17 of the Code do not provide for the comparative weighing or balancing of these matters. The tests for exemption are whether the individual "objects to joining trade unions generally" or "objects to the paying of dues or other assessments to trade unions generally". While the provision gives the Board discretion in respect of whether it orders an exemption, that discretion does not extend to ruling against an exemption simply because an individual acknowledges some of the benefits of unionization in the workplace. Consistent with the overall thrust of the Code, the Board is cautious in its approach to granting Section 17 exemptions in order to not inappropriately undermine the financial and other support a union needs in order to do its work.

Simon Fraser University, BCLRB No. B111/2013 (Leave for Reconsideration of BCLRB No. B20/2013), 227 C.L.R.B.R. (2d) 58 – The Union alleged the Employer committed an unfair labour practice when it asked its employees whether they intended to cross an anticipated picket line. The reconsideration panel found that the question of whether the Employer's inquiry constituted coercion or intimidation could be affected by the interpretation of the collective agreement provision in the matter. Without the collective agreement interpretation, the Board was without a foundational piece in respect of the dispute. Accordingly the original decision was set aside and the Board did not proceed further with the substantive issues.

Richard Thibodeau, BCLRB No. B115/2013 (Leave for Reconsideration of BCLRB No. B93/2013), 228 C.L.R.B.R. (2d) 108 - The reconsideration panel dismissed Thibodeau's application for leave and reconsideration of the dismissal of his application under Section 12 of the Code. The reconsideration panel found that the reasons in the original decision showed that the original panel was alive to the question at issue and came to a result well within the range of reasonable outcomes that allowed the reconsideration panel to understand why it made its decision and permitted the reconsideration panel to determine whether the conclusion is within the range of acceptable outcomes. Within the approach set out by the Supreme Court of Canada in *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 and *Construction Labour Relations v. Driver Iron Inc.*, 2012 SCC 65, it is not necessary to respond to every argument or line of possible analysis.

Vancouver Airport Centre Ltd., BCLRB No. B122/2013 (Leave for Reconsideration of BCLRB No. B49/2013), 228 C.L.R.B.R. (2d) 143 - The Vancouver Airport Centre and Richmond Inn Hotel sought leave and reconsideration of the finding that a bargaining unit at the Marriott Hotel was an appropriate unit. The applicants argued the original panel erred in allowing a second bargaining unit at what they said was a common employer consisting of three hotels, one of which was unionized.

The reconsideration panel found that the circumstances of this case gave rise to whipsawing and leapfrogging concerns and therefore significant industrial stability concerns. The reconsideration panel also found that the history of the operational relationship between one unionized hotel and two other non-unionized hotels is of little probative value in relation to the presumption of instability tied to the certification of a second union.

Certain Employees of Nishin Kanko Investments Ltd. (Days Inn), BCLRB No. B132/2013, 229 C.L.R.B.R. (2d) 179 - Certain employees at a hotel in Prince George applied for decertification. The hotel was part of a multi-employer bargaining structure in the hotel industry and collective bargaining was taking place. The Board rejected the Union's argument that the term "unit" in Section 33(2) should be interpreted as the "unit" defined in the master collective agreement, rather than that defined in the Union's certification. The Board held that that existence of a multi-employer bargaining structure was not an impediment to the decertification application.

Simon Fraser University, BCLRB No. B137/2013, 229 C.L.R.B.R. (2d) 53 - Numerous positions had existed outside the Union's bargaining unit for many years. The Union applied to the Board under Section 139 claiming to represent the disputed positions. The Union had been aware of a large number of the disputed positions being posted outside the Union's bargaining unit, as well as information about the nature of work involved with such positions. For many years, the Union took no steps to effectively assert any representational rights to the disputed positions, such as by filing grievances or Board applications. After examining the Board's law and policy regarding abandonment, the panel found that the Union had abandoned its claim to represent the individuals in the disputed positions and was deemed to have tacitly agreed that such positions fall outside the scope of its bargaining unit.

Coastal Community Credit Union, BCLRB No. B138/2013 - The Union applied to change the Union's bargaining unit description. While there was no dispute about who was presently in the respective units, the central issue was whether a proposed description might impact the Union's right to represent future employees. The Board confirmed that unit descriptors like "employees", "all employees", "employees at and from" specific worksites,

and even broad geographic descriptions, are not determinative of a union's right to represent future employees. A certification confers the right to represent a unit of employees of an employer, as opposed to work or a business. Bargaining rights are attached to that group of employees and follow the relocation or expansion of the employer's existing operations. The Board defines an employer's existing business operations by reference to the assumptions in place the moment the certification was issued or varied, recognizing that the parties may subsequently adjust the scope of the unit established by certification.

Interior Health Authority (East Kootenay Regional Hospital), BCLRB No. B139/2013 (Leave for Reconsideration of BCLRB No. B109/2013), 230 C.L.R.B.R. (2d) 307 - HSA applied for leave and reconsideration of an original decision which dismissed HSA's objections to the BCNU's partial raid applications in respect of Registered Psychiatric Nurses employed at 2 hospitals. HSA questioned whether the Board's ordinary policy respecting the majoritarian principle in partial decertification and partial raid applications ought to be abandoned in the health sector. The Board rejected HSA's submissions finding that the unique circumstances and unique considerations which arise in respect to these applications in the health sector have been well explained in previous decisions. The reconsideration panel confirmed that the Board's policy that there must be compelling reasons to fragment a bargaining unit does not apply to a partial raid application in the health sector if the raiding union seeks to replace the incumbent union for all employees employed by an affiliate in a subsector or for all employees employed at geographically separate worksites within a health authority around which a rational line can be drawn. With respect to HSA's argument that the original panel failed to provide a reasoned analysis, the reconsideration panel rejected this argument as well. The original panel found that the current test for the adequacy of reasons in respect of Board decisions is based on the decisions of the Supreme Court of Canada in *Construction Labour Relations v. Driver Iron Inc.* and *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*. This approach establishes that the adequacy of reasons is not a "stand-alone" basis for review, rather, the reasons are assessed in the context of the substantive review and they are sufficient if they allow that substantive review to be conducted. Within this approach, it is not necessary for the decision to respond to every argument or line of possible analysis.

Inga Jakobsson, BCLRB No. B154/2013 (Leave for Reconsideration of BCLRB No. B145/2013), 231 C.L.R.B.R. (2d) 69 - The applicants sought leave and reconsideration of an original decision which denied them standing in respect to the Union's application asserting the applicants were replacement workers working in violation of Sections 68 and 6(3)(e) of the Code. The reconsideration panel found the applicants had a legally material interest under the Code in respect of the Union's replacement worker application as the issue for determination in the Union's application was whether the applicants were replacement workers and thus whether they would be entitled to continue to work for the Employer at the struck location during the course of the labour dispute between the Union and the Employer. The reconsideration panel noted that this determination was consistent with *Hoogendoorn v. Greening Metal Products and Screening Equipment Co.*, [1968] S.C.R. 30. As in *Hoogendoorn*, both the status of the applicants and their ability to continue to work for the Employer was at issue. As well, there was a clear adversity of interest between the positions of the applicants and the Union regarding the issues under the Code, with the adversity in the present matter also proceeding to the expelling of the applicants from membership in the Union. Accordingly, the applicants were granted interested party standing.

Health Employers Association of British Columbia, BCLRB No. B157/2013, 230 C.L.R.B.R. (2d) 134 - BCNU applied under Section 19 to represent approximately 1,200 Licensed Practical Nurses (LPNs) in the facilities subsector bargaining unit. Approximately four months after the applications were filed (and before they were decided), the *Health Authorities Amendment Act 2013* (the "*Amendment Act*") was enacted. The *Amendment Act* amended the definition of "nurse" in the *Health Authorities Act* to include LPNs. The effect of the *Amendment Act* was to transfer all unionized LPNs into the nurses' bargaining unit. The panel found the raid applications were rendered moot by the transfer of LPNs into the nurses' bargaining unit under the *Amendment Act* – the applications sought to represent certain LPNs in the facilities subsector bargaining unit and, after the *Amendment Act*, there were no longer any LPNs in the facilities subsector. Accordingly, the Board declined to adjudicate those applications further. As the *Amendment Act* was silent with respect to the issue of union representation of the LPNs, the panel, after reviewing Hansard, found that the legislative intent was to leave the issue of union representation for the Board to decide under the Code. As the panel was not satisfied the parties would likely resolve the issue of union representation by agreement, and because it is an important labour relations issue that should be resolved expeditiously, consistent with the Board's duty under Section 2(e) of the Code, the panel found it was appropriate to exercise its jurisdiction to determine the issue of union representation of LPNs in the nurses' bargaining unit on its own motion. The panel found the Board's BMETs policy should apply to determine the issue of union representation, however, it must be applied on a modified basis to take into account the different factual circumstances present in this case. In accordance with the approach set out in the decision, there will be further informal discussions with the parties aimed at resolving that issue, and where the issue cannot be resolved expeditiously by agreement, it will be resolved by adjudication.

FortisBC Inc., BCLRB No. B164/2013, 232 C.L.R.B.R. (2d) 51 - The applicants sought standing to participate in a hearing concerning applications by the Employer and the Union to vary an essential service order. Both applicants alleged that the potential service interruptions and disruptions would result in significant economic impacts, harmful environment impacts, and risks to public safety. The Board found that while the applicants stood to be affected by the outcome of the hearing, even more so than other members of the public in some respects, this did not meet the interested party status test. The impact did not amount to a direct and legally material impact in that the proceeding would not determine their rights under the Code. In terms of the application for intervenor standing, the Board concluded it was not appropriate to grant intervenor standing as the case did not raise policy issues of general interest to the labour relations community. Further, the Employer was advancing a position consistent with that advanced by the applicants and was adequately situated to raise issues and present evidence in support of its position.

Commonwealth Construction Company Ltd., BCLRB No. B168/2013 (Leave for Reconsideration of BCLRB No. B48/2013), 232 C.L.R.B.R. (2d) 104 - On reconsideration, the essential determination at issue was the original panel's conclusion that there was no labour relations purpose in making the common employer declaration requested by the Building Trades under Section 38 of the Code. The reconsideration panel found that the original panel correctly interpreted the parties' settlement agreement. As for the allegation that the original panel applied the wrong test to adjudicate the *prima facie* case preliminary objection, the reconsideration panel noted that subsection 133(4) provides a specific statutory power given to the Board to dismiss an application or complaint which in its "opinion" is "without merit". Both the reference to the Board's "opinion" and the exercise of its judgment in respect of whether an application or complaint is "without merit"

involve the Board making a labour relations judgment in respect to an application or complaint within the Board's attributed expertise and specialized area of knowledge in the Code, which is protected by strong privative clauses. The Board's exercise of judgment under subsection 133(4) is thus distinguishable from the common law concept of what constitutes a *prima facie* case. The reconsideration panel found the original panel's determination was consistent with the requirements in subsection 133(4).

Kathrine Wunderlich (Blair), et al., BCLRB No. B181/2013, 233 C.L.R.B.R. (2d) 214 - The Board found a breach of Section 12 of the Code where the Union failed to refer the Complainants' grievance to arbitration within the time limit prescribed under the Collective Agreement and failed to give any real explanation for the delay, which resulted in the arbitration board dismissing the grievance as untimely. The Board found that the Union's conduct was arbitratry for the following three reasons. First, the Union and the Employer had mandatory language in their collective agreement regarding the grievance procedure and there was no evidence that the parties had failed to comply with the timelines in other cases. Second, the Union's failure to provide any real explanation for the delay supported an inference that the delay was attributable to blatant or reckless disregard for the Complainants' interests. The Union gave no reasons to the arbitrator for its inaction in referring the matter to arbitration. Third, the duration of the delay was significant and lengthy. The Union allowed two and a half months to transpire before referring the matter to arbitration, despite the fact that the Employer had informed the Union that it would be making a timeliness objection.

Ikea Canada Limited Partnership, BCLRB No. B188/2013 (Leave for Reconsideration of BCLRB No. B148/2013), 233 C.L.R.B.R. (2d) 34 - The reconsideration panel confirmed that Section 68 of the Code does not capture generic work, but rather the work of an employee in the bargaining unit or backfill work. The reconsideration panel found that the order made by the original panel for ongoing monitoring and reporting by the Board on the continuing circumstances between the parties through the entire course and extent of their labour dispute, was not proportionate or appropriate to the circumstances in the case or consistent with the Board's jurisprudence and approach to the ordering of investigations and reports in respect to Section 68 of the Code. The Board found that such an order would have the Board in effect engage in an open-ended, evidence gathering process, which was inappropriate in the circumstances of the present matter. Rather a single IRO investigation and report was proportionate and appropriate in the circumstances of the case.

Northern Health Authority (Prince Rupert Regional Hospital), BCLRB No. B195/2013 (Leave for Reconsideration of BCLRB No. B108/2013), 233 C.L.R.B.R. (2d) 77 - The reconsideration panel found that it was appropriate to reinstate employees to their former positions in the circumstances of this case in order to put them back into the position they would have been in but for the Employer's breach of the Code. As the Employer was found to have violated the Code, the Board cannot deprive the employees of an order to reinstate them to their positions based on the Employer's choice to implement a change during the proceedings while its actions were being challenged. Further, the reconsideration panel found there were exceptional and compelling circumstances requiring an order of costs in this case. This case was unusual in terms of the nature of the Employer's attempts to conceal the true nature of its plans, including in proceedings and testimony before the Board. These actions lengthened the proceedings, with additional legal costs having to be incurred by the Union to uncover what the Employer was trying to conceal, the substance of which related to the violations of the Code found against the Employer in the original decision.

All Tech. Transport Ltd. doing business as Busters Towing, BCLRB No. B205/2013 - The panel found that a strike vote taken by the Union was not valid for the purposes of Section 60 of the Code because the parties had not yet bargained collectively as required under Section 59(1) of the Code. While it is not necessary for proposals to be in writing to meet the Board's test under Section 59(1), and although the Employer had briefly discussed the issue of wages, it had not been given an opportunity to respond to the Union's first comprehensive proposal. The panel found the discussions on monetary issues were incomplete and more of the nature of preliminary exploratory discussions and not the kind of discussions which satisfy what the Board has characterized as an exchange of views on all the key or central issues in dispute for the purposes of Section 59(1) of the Code.

Heather Vickers, BCLRB No. B215/2013 (Leave for Reconsideration of BCLRB No. B155/2013) - The Complainant applied for reconsideration of an original decision dismissing her Section 12 complaint against the Union. The Complainant alleged the Union had considered improper factors in not pursuing a grievance on her behalf. Those factors were the Union representative's statements that a grievance would be out of time under the collective agreement and that the Complainant's co-workers requested anonymity with their discussions around issues related to the Complainant. The Board confirmed that in evaluating a union's actions, it considers the union's actions as a whole in representing its members. The record demonstrated that the Union considered the merits of the grievance and found them lacking. Simply because the Union made a comment about the time limit in the collective agreement did not mean that the Union had reached a different conclusion about the merits. Further, the Board found it was reasonable in the circumstances to have taken into account both the concerns of the Complainant and her fellow bargaining unit members who wished anonymity.

IV. COURT DECISIONS

1. ***Pacific Newspaper Group Inc. v. Communications, Energy and Paperworkers Union of Canada, Local 2000***, 2013 BCSC 178 - The petitioner applied for an order striking a portion of the Board's response dealing with the meaning of the phrase "patently unreasonable" in s. 58(2) of the *Administrative Tribunals Act* ("*ATA*"). The petitioner argued that the Board's limited role as a party in the judicial review did not entitle it to make the arguments as to the interpretation of the *ATA*. The Court found that it is well established that tribunals have standing to make representations regarding the applicable standard of review without compromising neutrality. In this case, the underlying meaning of "patently unreasonable" as that phrase is used in the *ATA* was in dispute and accordingly the standard of review to be applied to the decision in question was in dispute.

   The Court found the Board was in a unique position to provide the reviewing court with helpful and informative submissions concerning the proper construction of the term. While acknowledging the parties to the dispute were sophisticated and well-represented by counsel, the Court noted that the Board has the added advantage of providing the court with submissions from a forward-looking perspective as it is concerned with the applicable standard of review over the long term and is not focused on the particular decision under review. The Court found the Board's submissions regarding the applicable standard of review did not go beyond its limited role as a party to the judicial review proceedings. Accordingly, the petitioner's application was dismissed.

2. ***Communications, Energy & Paperworkers' Union of Canada, Local 298 v. Eurocan Pulp & Paper Co.***, File No. 35029, February 14, 2013 - Leave to appeal from the judgment of the Court of Appeal was dismissed with costs to the respondent Eurocan Pulp & Paper Co.

3. ***Peak Energy Services Partnership v. United Food and Commercial Workers International Union, Local 1518***, 2013 BCSC 483 - The petitioner sought an order setting aside a reconsideration decision that had set aside an original decision on the basis that the reasons were insufficient. The reconsideration decision had remitted the matter to a new panel as the original panel was imminently leaving her position as a vice-chair at the Board. The Court found the Board's processes were not fair in the circumstances of this case because it did not take steps to expedite the hearing of the reconsideration application so that the matter could be remitted back to the original panel prior to her departure from the Board. The Court set aside the reconsideration decision and remitted the matter back to the reconsideration panel with directions that it remit the matter back to the original panel to provide reasons.

4. ***United Food and Commercial Workers Union, Local 247 v. British Columbia (Labour Relations Board)***, 2013 BCSC 955 - The petitioner applied to set aside the original and reconsideration decisions alleging that the petitioner was denied a fair hearing and the Board's decisions were patently unreasonable. The petitioner argued the Board erred in allowing the original panel to revisit a statement it made in earlier proceedings and erred in its application of Code principles. The Court found that the statement which was revisited was not a finding or ruling, but rather was obiter. In any event, even if it was a finding, the Court found that it could be reconsidered as it concerned the very issue that panel had been told it had to decide. With respect to the argument that the Board failed to apply Code principles, the Court found the factual and legal points raised by the petitioner were within the Board's exclusive jurisdiction and area of expertise and accordingly were entitled to a very high degree of deference. The Court found that the clause in issue was open to the interpretation argued by both sides and the conclusions of the reconsideration panel were not patently unreasonable. Accordingly, the petition was dismissed.

5. ***Hospital Employees' Union v. British Columbia (Labour Relations Board)***, 2013 BCSC 1516 - The petitioners, the HEU and the BCGEU, applied for judicial review of the Board's decision concerning raid applications made by the BCNU in relation to Licensed Practical Nurses ("LPNs"). The petitioners argued the Board's conclusions concerning industrial instability, which the Board found justified an exception to the Board's general policy against proliferation of bargaining agents at a single location, were patently unreasonable because they were based on speculation, not evidence, and on an irrational train of reasoning. The petitioners also argued the Board breached the rules of natural justice and denied them a fair hearing by accepting submissions where evidence was required, and by ignoring uncontradicted evidence put forward by the BCGEU. The Court found the Board's decision was not patently unreasonable nor was there any breach of the rules of natural justice. Accordingly, the petition was dismissed.

6. ***British Columbia Ferry and Marine Workers' Union v. British Columbia Ferry Services Inc.***, 2013 BCCA 497 - The appellant appealed an order denying its petition for judicial review of the Board's s. 99 decision and appealed the arbitration award at the root of the dispute under s. 100 of the Code. The appellant argued the award, which decided that a number of positions were excluded, denied the workers' Charter rights to freedom of association. The Court dismissed the appeals. In respect of the s. 100 appeal, the court found it was not open to the Union to raise the Charter on appeal because it was not fully argued before the arbitrator. As well, the Court found it did not have jurisdiction to hear an appeal of the award under s. 100 because the arbitrator had not based his award on a question of general law, but rather on the interpretation and application of the collective agreement.

   In respect of the judicial review of the Board's decision, the Court considered the issue of whether the original decision can be considered when the Board has denied leave for reconsideration without articulating a fresh analysis. The Court held that the Court of Appeal decision in *United Steelworkers, Paper and Forestry, Rubber, Manufacturing, Energy Allied Industrial and Service Workers International Union, Local 2009 v. Auyeung*, 2011 BCCA 527 did not overturn the Board's decision in *RG Properties Ltd.*, BCLRB No. B378/2003 (Leave for Reconsideration of BCLRB No. B252/2003) and a reviewing court will look to the original decision, any fresh reasoning provided by the Board, and any such other circumstances as may be found in the record when reviewing a decision under s. 141 to deny leave to apply for reconsideration.

   On the substance of the judicial review, the Court found the issue before the chambers judge was whether the Board was patently unreasonable in declining to interfere with the arbitration award. As the issue involved labour relations policies and Code principles, the Court found that these were matters squarely within the Board's competence, which the Code reserves for the Board to decide. The Court found the Board's decision was not patently unreasonable and the petition was dismissed.

7. ***Pacific Newspaper Group Inc. v. Communications, Energy and Paperworkers Union of Canada, Local 2000***, 2013 BCSC 2155 - The petitioner sought judicial review of the Board's decision relating to the petitioner's application to the Board to declare the Union's "hot declaration" as "void for all purposes". The Board found it had the jurisdiction to refuse to provide a remedy to the petitioner despite the fact that the petitioner had not engaged in improper conduct. The Court found that interpretation of s. 70 of the Code was clearly open to the Board. As the Board's decision went to the heart of the Board's exclusive jurisdiction, the resulting decision was entitled to deference and was not patently unreasonable. Accordingly, the petition was dismissed.

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The following tables provide an analysis of the applications filed and disposed of in 2013. In some cases, statistics from 2012 and other years are provided for comparative purposes.

As of 2005 Table 1 of the *LRB Annual Report* includes applications and complaints "Filed Previous" and "Remainder Active". These figures help provide an overview of the active or current caseload at the Labour Relations Board.

Statistical Tables Definitions:

- **Application / Complaint**: a section or subsection of the *Labour Relations Code*. A 'case' may be comprised of more than one application or complaint (section);
- **Filed in Previous Year(s)**: count of applications / complaints received sometime prior to the report period and not yet disposed of at January 1 of the report period;
- **Filed in Current Year**: count of applications / complaints received in the report period;
- **Disposed of - Current**: count of applications / complaints with a final disposition in the report period (includes applications / complaints Not Proceeded With, Withdrawn, Settled, Granted, Dismissed and Other);
- **Open at Year End**: count of applications / complaints received sometime during or prior to the report period and open (not yet disposed of) at the end of the report period. These applications / complaints may be counted as Filed in Current Year or Filed in Previous Year(s), as applicable (same as column heading for 2005-2007 reports: Remainder Active).

A number of other changes have been made during past years in the statistical base used in some of the categories in Table 1. The changes have been summarized as follows for reference (in date order with most recent appearing first).

Requests for Appointment of a Facilitator

Applications to appoint a Facilitator under Section 53 are counted as applications for the first time in the 2008 Annual Report (see Table 1: "Applications and Complaints Filed and Disposed of"). These applications have been processed by the Board/Council prior to 2008 but have not appeared in the Annual Report Tables until now.

Changes in Report Tables

Tables available in previous years regarding vote information for representation applications, details of Part 5 applications, and details of Mediation Officer appointments were taken out of the Annual Report in 2004. Certification cancellation information (s.33(2)) was added to tables 1A, 1B, 2 and 2A as of 2004. Other information previously included in Table 1 footnotes has been moved to related tables for ease of reference and readability.

Applications for Collective Agreement Arbitration

The Labour Relations Board assumed the processing of these applications from the Collective Agreement Arbitration Bureau in mid-2002; however, due to technical and procedural considerations, applications under Sections 86, 87, 104 and 105 ("CAAB" applications) were counted in the Board's statistics only if received on or after January 1, 2003 (i.e., any 'outstanding' CAAB applications at the end of 2002 are not included in the Board's statistics).

Requests for Appointment of a Mediator

Applications to appoint a mediator under Section 74 were counted as applications for the first time in the 2002 Annual Report (see Table 1: "Applications and Complaints Filed and Disposed of"). These applications were processed by the Board/Council prior to 2002 but appeared only in the "Analysis of Mediator Appointments" Table for those years.

Complaints of Unfair Labour Practices

Prior to 1989, complaints under Sections 2 or 3 (now Sections 5 or 6) of the legislation were not broken down by sub-section. From 1989 to 1996, complaints under each particular sub-section were counted as one complaint.

In 1996, the Board decided to revert to the pre-1989 method of counting these complaints. The change affects the statistics published as Sections 2,3 and 4 of the *Industrial Relations Act* and Sections 5,6,7 and 9 of the *Labour Relations Code*. The following table displays the statistics as they were published and as they would have been under the pre-1989 method of counting (rev).

Type of Application	NUMBER OF APPLICATIONS OR COMPLAINTS									
	Year	Filed	Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other	Hearing Held
Other Unfair Labour Practice Complaints (ss.5,6,7 and 9 of the Labour Relations Code or ss.2,3, and 4 of the Industrial Relations Act)	1995	825	909	26	0	573	192	118	0	449
	1995 (rev)	488	529	25	0	338	97	69	0	221
	1994	899	831	9	0	586	136	100	0	362
	1994 (rev)	513	467	9	0	326	74	58	0	176
	1993	748	676	3	0	440	134	99	0	331
	1993 (rev)	422	390	2	0	249	73	66	0	177
	1992	416	345	0	0	205	108	32	0	176
	1992 (rev)	228	185	0	0	112	54	19	0	83
	1991	346	370	0	0	241	92	37	0	NP
	1991 (rev)	187	199	0	0	135	44	20	0	
	1990	386	388	5	0	220	100	63	0	NP
	1990 (rev)	229	225	3	0	124	62	36	0	
	1989	209	177	0	0	96	47	34	0	NP
	1989 (rev)	123	118	0	0	61	36	21	0	

NP --Not Published

Stay Applications

Applications for a Stay of proceedings were counted as applications for the first time in 1993 (see Table 1: "Applications and Complaints Filed and Disposed of"). A footnote has been added to the Miscellaneous category to facilitate comparisons over time. In previous years, these applications were not counted.

For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship

Prior to 1989, an application regarding the inclusion or exclusion of employees from a bargaining unit was counted as one application for each employee in question if a ruling was made; if the application was withdrawn, it was counted as one application regardless of the number of employees

involved. From 1989 on, an application regarding the inclusion or exclusion of employees is counted as one application regardless of the number of employees in question and regardless of whether or not a ruling is made.

To File an Order in the Supreme Court

Applications to file orders in the Supreme Court were counted as applications for the first time in 1989 (see Table 1: "Applications and Complaints Filed and Disposed of"). These applications had been processed by the Board/Council since 1974 but were not registered or counted prior to 1989.

For an Order or Opinion Pertaining to Applications Pursuant to Part 5 (Strikes, Lockouts, Picketing, etc.)

Prior to 1988, each application under Part 5 was counted as one application, regardless of the sections cited. One application could cover, for example, a strike or a picket or a combination of both. From 1988 on, each section and sub-section of Part 5 is counted as a separate application.

GENERAL NOTES

For the convenience of users, the following is a brief description of some of the disposition codes used in Table 1.

- Applications and complaints granted include those where an order is issued, whether a regular order or a consent order. If an application is partially granted, it is included in this category.
- Applications and complaints dismissed include those where no violation is deemed to have occurred, where the application does not conform to statutory or regulatory time limits or where it is determined no further action is warranted.
- Applications and complaints not proceeded with include only those where the applicant has not supplied the Board with sufficient information to process the application. The application is returned but the applicant is free to reapply.
- Complaints that do not require a decision from the Board are designated settled including cases for which the applicant submits a withdrawal.

It is important to note when using these statistics that the work content embodied in individual applications varies widely, both among different categories of applications and among applications in the same category. The work content of the administrative, investigative and decision-making functions can vary widely as well, from category to category and from application to application.

TABLE 1: Applications and Complaints Filed and Disposed of in 2013 (including comparative figures for 2012)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Complaints of Unfair Labour Practices												
Complaints Regarding Internal Union Affairs (s.10)	2013	2	5	4	0	0	0	0	4	0	3	0
	2012	3	8	9	0	0	3	0	6	0	2	2
Complaints Regarding Duty to Bargain in Good Faith (s.11)	2013	17	26	36	0	0	29	5	2	0	7	8
	2012	16	32	31	0	0	22	6	3	0	17	3
Complaints Regarding Duty of Fair Representation (s.12)	2013	15	54	55	10	0	0	1	44[1]	0	14	1
	2012	29	61	75	24	0	2	2	47[2]	0	15	7
Other Unfair Labour Practice Complaints (ss.5 - 9)[3]	2013	53	138	144	1	0	122	5	16	0	47	25
	2012	48	136	131	0	0	95	13	23	0	53	22
Religious Exemption (s.17)	2013	1	6	7	0	0	0	6	1	0	0	1
	2012	1	10	10	0	0	0	10	0	0	1	0
Certification Applications (ss.18, 19 and 28)	2013	61	198[4]	225	2	31	0	123	69	0	34	166
	2012	53	157	149	0	59	0	67	23	0	61	137
Certification Variances (ss.28 and 142)	2013	19	180[5]	163[6]	6	26	0	119	12	0	36	51
	2012	25	118[7]	124[8]	1	12	0	97	14	0	19	49

[1] 25 of the 44 dismissed complaints filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.
[2] 27 of the 47 dismissed complaints filed under the *Labour Relations Code* were dismissed because no *prima facie* case was found.
[3] In 1996, the Board changed the method of counting complaints under Sections 5 and 6 of the *Labour Relations Code*. Figures in this category reported prior to 1996 cannot be compared to figures in this category reported from 1996 to present.
[4] Includes two raid applications to expand the bargaining unit of an existing certification.
[5] Includes 14 partial decertification applications.
[6] Includes 15 partial decertification applications. See TABLE 3.
[7] Includes nine partial decertification applications.
[8] Includes eight partial decertification applications. See TABLE 3.

TABLE 1: Applications and Complaints Filed and Disposed of in 2013 (including comparative figures for 2012)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Certification Cancellations (ss.33 and 142)[1]	2013	6	48	46	5	3	0	30	8	0	8	33
	2012	6	37	37	4	5	0	25	3	0	6	28
Cancellation of a Voluntary Recognition (s.34)	2013	2	4	5	0	2	0	3	0	0	1	5
	2012	1	8	7	0	2	0	3	2	0	2	4
Permission to Alter Conditions of Employment (ss.32 and 45)	2013	0	1	1	0	0	0	1	0	0	0	0
	2012	0	1	1	0	0	0	1	0	0	0	0
Alleged Unlawful Alteration of Employment Terms and Conditions (ss.32 and 45)	2013	2	13	12	0	0	10	0	2	0	3	1
	2012	1	15	14	0	0	11	2	1	0	2	3
Declaration of Successor Status												
Successor Employer (s.35)	2013	7	60	53	2	7	0	37	7	0	14	2
	2012	19	43	55	2	5	0	45	3	0	7	5
Successor Union (s.37)[2]	2013	1	31	11	0	1	0	10	0	0	21	0
	2012	2	21	22	0	0	0	22	0	0	1	0
Common Employer (s.38)	2013	9	10	16	0	11	0	2	3	0	3	3
	2012	9	8	8	0	6	0	0	2	0	9	1
Accreditation Applications (s.43)	2013	0	0	0	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0	0	0	0

[1] See TABLE 3.

[2] The workload required to process applications in this category varies widely. The Board may receive one application per collective bargaining relationship or one application covering several collective bargaining relationships. This report reflects the number of applications filed and disposed of regardless of the number of collective bargaining relationships affected by those applications (any notable discrepancies are listed below).

TABLE 1: Applications and Complaints Filed and Disposed of in 2013 (including comparative figures for 2012)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Accreditation Variances (ss.43 and 142)	2013	0	3	3	0	0	0	3	0	0	0	0
	2012	2	1	3	2	1	0	0	0	0	0	0
Accreditation Cancellations (s.142)	2013	0	0	0	0	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0	0	0	0	0
Alleged Failure to Execute or Comply with a Collective Agreement (s.49)	2013	1	12	8	0	0	5	2	1	0	5	0
	2012	9	7	15	0	0	12	0	3	0	1	1
Facilitator (s.53(5))	2013	14	16	24	0	0	0	*n/a*	*n/a*	24[1]	6	0
	2012	15	23	24	0	0	0	*n/a*	*n/a*	24[1]	14	0
First Collective Agreement (s.55)[2]	2013	0	7	4	0	0	3	*n/a*	*n/a*	1[3]	3	0
	2012	1	7	8	0	0	6	*n/a*	*n/a*	2[4]	0	0
Appointment of a Mediation Officer (s.74)[2]	2013	32	96	106	1	2	95	*n/a*	*n/a*	8[5]	22	0
	2012	27	131	126	0	7	107	*n/a*	*n/a*	12[6]	32	0

[1] Facilitator appointed.
[2] The method of coding applications in these two categories changed in 2009 (a) when an application is received under the First Collective Agreement provisions of the *Code* and a Mediation Officer was previously appointed under s. 74, the s. 74 case is disposed of as withdrawn (previously coded as other); and (b) when the parties agree to settle matters by way of mediation-arbitration or arbitration, the case is disposed of as settled (previously disposed of as other or settled).
[3] For one case, the parties were allowed to exercise their right to strike or lockout.
[4] For two cases, the parties were allowed to exercise their right to strike or lockout.
[5] For three cases, no agreement reached; for four cases, the unit was decertified; and for one case the business closed.
[6] For nine cases, no agreement reached; and for three cases, the unit was decertified.

TABLE 1: Applications and Complaints Filed and Disposed of in 2013 (including comparative figures for 2012)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Collective Agreement Arbitration Bureau (CAAB)[1]												
Section 86 (Appointment of Arbitrator)	*2013*	*11*	*58*	*60*	*0*	*28*	*1*	*n/a*	*n/a*	*31*[2]	*9*	*n/a*
	2012	*13*	*86*	*88*	*0*	*33*	*4*	*n/a*	*n/a*	*51*[2]	*11*	*n/a*
Section 87 (Appointment of Settlement Officer)	*2013*	*6*	*25*	*28*	*1*	*5*	*21*	*n/a*	*n/a*	*1*[3]	*3*	*n/a*
	2012	*5*	*39*	*38*	*0*	*3*	*22*	*n/a*	*n/a*	*13*[3]	*6*	*n/a*
Section 104 (Appointment of Arbitrator)	*2013*	*11*	*184*	*192*	*1*	*45*	*15*	*n/a*	*n/a*	*131*[4]	*3*	*n/a*
	2012	*10*	*202*	*201*	*4*	*44*	*17*	*n/a*	*n/a*	*136*[4]	*11*	*n/a*
Section 105 (Appointment of Mediator-Arbitrator)	*2013*	*1*	*4*	*5*	*1*	*0*	*0*	*n/a*	*n/a*	*4*[5]	*0*	*n/a*
	2012	*0*	*2*	*1*	*0*	*0*	*0*	*n/a*	*n/a*	*1*[5]	*1*	*n/a*
Combined CAAB Sections	***2013***	***29***	***271***	***285***	***3***	***78***	***37***[6]	***n/a***	***n/a***	***167***	***15***	***n/a***
	2012	***28***	***329***	***328***	***4***	***80***	***43***[7]	*n/a*	*n/a*	***201***	***29***	***n/a***
Part 5 Applications (Strikes, Lockouts, Picketing, etc.) (ss.57-67 and ss.69-70)	2013	12	48	54	0	0	31	15	8	0	6	28
	2012	13	47	48	0	0	28	18	2	0	12	23

[1] These applications were included in the *LRB Annual Report* for the first time in 2003. Beginning in 2004, figures for individual sections as well as the combined totals for CAAB (ss.86, 87, 104, 105) are included in this report. In general, for this category, Withdrawn indicates withdrawal / settlement prior to any appointments and Settled indicates withdrawal / settlement subsequent to the appointment of a Settlement Officer but prior to appointment of an Arbitrator. See individual section notes regarding Other dispositions.

[2] Arbitrator appointed (recorded in previous 2004 and 2003 reports as Granted).

[3] Matter referred back to the parties under Section 87(3).

[4] Arbitrator appointed (recorded in previous 2004 and 2003 reports as Granted). For 15 cases in 2013 and 28 cases in 2012, a Settlement Officer was appointed in addition to an Arbitrator.

[5] Mediator-Arbitrator appointed.

[6] A Settlement Officer was appointed for 53 CAAB applications disposed of in 2013: 37 disposed of as Settled and 16 disposed of as Other. Of these 53 applications, 44 (83%) resulted in full and final settlement.

[7] A Settlement Officer was appointed for 85 CAAB applications disposed of in 2012: 43 disposed of as Settled and 42 disposed of as Other. Of these 85 applications, 55 (65%) resulted in full and final settlement.

TABLE 1: Applications and Complaints Filed and Disposed of in 2013 (including comparative figures for 2012)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Replacement Workers (s.68)	2013	2	7	8	0	0	3	4	1	0	1	6
	2012	1	5	4	0	0	3	1	0	0	2	1
Essential Service Designations (s.72)	2013	8	25	27	0	0	17	10	0	0	6	3
	2012	4	708	704	0	0	31	673	0	0	8	6
Last Offer Vote (s.78)	2013	1	15	16	0	1	0	15[1]	0	0	0	0
	2012	0	12	11	0	0	0	11[2]	0	0	1	0
Review of Arbitration Award (s.99)	2013	4	22	15	0	1	0	1	13	0	11	1
	2012	20	43	59	1	3	0	7	48	0	4	2
Interim Order (s.133(5))	2013	1	15	10	0	6	0	2	2	0	6	5
	2012	1	14	9	0	6	0	2	1	0	6	4
File an Order in Supreme Court (s.135)	2013	5	21	21	0	10	0	11	0	0	5	0
	2012	2	25	22	0	9	0	13	0	0	5	0
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s.139)	2013	61	38	46	2	17	0	0	0	27[3]	53	10
	2012	64	52	55	1	17	0	0	0	37[3]	61	4
Reconsideration of a Decision (s.141)	2013	13	41	47	0	3	0	14	30[4]	0	7	0
	2012	14	58	59	0	2	0	15	42[5]	0	13	0

[1] In three cases the final offer was accepted; in 10 cases the final offer was rejected; in one case the application was withdrawn prior to the vote; and in one case the ballots were not counted: BCLRB B185/2013.
[2] In six cases the final offer was accepted; in three cases the final offer was rejected; and in two cases the applications were withdrawn prior to the vote.
[3] Ruling made.
[4] For 27 of the 30 applications dismissed in 2013, leave to apply was denied.
[5] For 38 of the 42 applications dismissed in 2012, leave to apply was denied.

TABLE 1: Applications and Complaints Filed and Disposed of in 2013 (including comparative figures for 2012)

Type of Application / Complaint	Year	Filed in Previous Year(s)	Filed in Current Year	Disposed of - Current							Open at Year End	Hearing Held
				Total Disposed of	Not Proceeded With	Withdrawn	Settled	Granted	Dismissed	Other		
Declaratory Opinion (excluding Declaratory Opinions Pertaining to Part V of the Legislation) (s.143)	2013	3	5	8	0	2	0	4	2	0	0	3
	2012	5	5	7	0	1	0	4	2	0	3	1
Miscellaneous	2013	29	85[1]	95[2]	1	5	36	37	16	0	19	13
	2012	39	95[3]	105[4]	0	10	30	45	20	0	29	10
Total	**2013**	**410**	**1501**	**1555**	**33**	**206**	**388**	**460**	**241**	**227**	**356**	**365[5]**
	2012	**463**	**2217**	**2260**	**39**	**225**	**393**	**1082**	**245**	**276**	**410**	**313[6]**

NOTE: The sections quoted are from the *Labour Relations Code* unless otherwise indicated.

[1] Includes seven stay applications.
[2] Includes eight stay applications (one was granted; seven were dismissed).
[3] Includes five stay applications.
[4] Includes six stay applications (six were dismissed).
[5] 365 applications disposed of in 2013 were heard sometime during the process. In 2013, the Board held 326 hearings (including 264 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2013.
[6] 313 applications disposed of in 2012 were heard sometime during the process. In 2012, the Board held 226 hearings (including 164 expedited hearings to deal with certification, expanded bargaining unit, and decertification applications), some of which dealt with multiple applications and for some of which, the applications had not been disposed of by the end of 2012.

Chart 1: Number of Applications and Complaints FILED in 2013 - by Type of Application/Complaint

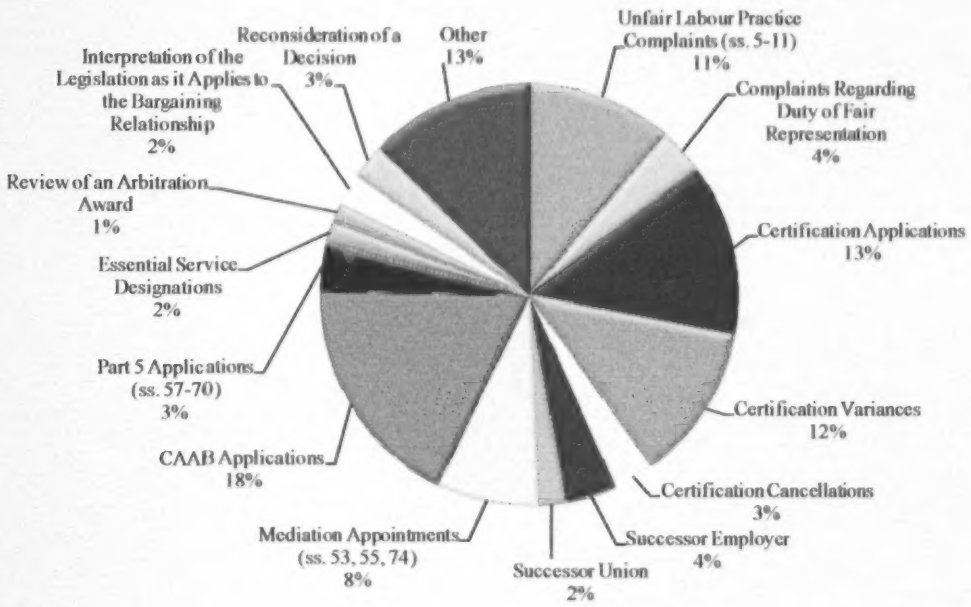
Unfair Labour Practice Complaints (ss. 5-11) 11%
Complaints Regarding Duty of Fair Representation 4%
Certification Applications 13%
Certification Variances 12%
Certification Cancellations 3%
Successor Employer 4%
Successor Union 2%
Mediation Appointments (ss. 53, 55, 74) 8%
CAAB Applications 18%
Part 5 Applications (ss. 57-70) 3%
Essential Service Designations 2%
Review of an Arbitration Award 1%
Interpretation of the Legislation as it Applies to the Bargaining Relationship 2%
Reconsideration of a Decision 3%
Other 13%

TABLE 1A: Certification Applications and Certification Cancellations Under s. 33(2) Granted in 2013 - Analyzed by Industry

Type of Industry	Certification Applications		Certification Cancellations[1]	
	Number of Applications Granted	Number of Employees[2]	Number of Applications Granted	Number of Employees[3]
Accommodation, Food and Beverage Services	1	92	3	67
Business Services	--	--	1	4
Communication and Other Utilities	1	6	--	--
Construction	15	244	1	9
Educational Services	5	147	--	--
Finance and Insurance	1	5	--	--
Government Services	1	6	--	--
Health and Social Services	71	1645	5	92
Logging and Forestry	1	4	--	--
Manufacturing	7	180	5	108
Retail Trade	1	35	7	156
Transportation and Storage	6	173	1	2
Wholesale Trade	2	15	--	--
Other Services	11	317	3	21
Total	**123**	**2869**	**26**	**459**

[1] In order to accurately reflect the number of employees per granted application, only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table. Thus, the total number of applications granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of Certification Cancellations by applicant type.

[2] The number of employees on an application for certification is based on the information supplied by the union on the application form.

[3] The number of employees on an application to cancel a certification is based on the number of eligible voters on the Return of Poll signed by the returning officer.

Chart 1A: Certification Applications Granted - Analyzed by Type of Industry (Number of Applications)

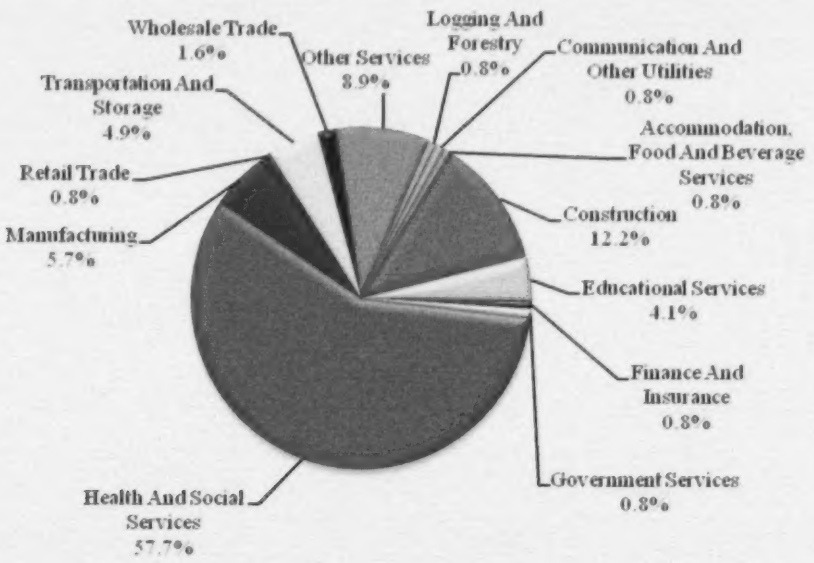

Chart 1B: Certification Applications Granted - Analyzed by Type of Industry (Number of Employees)

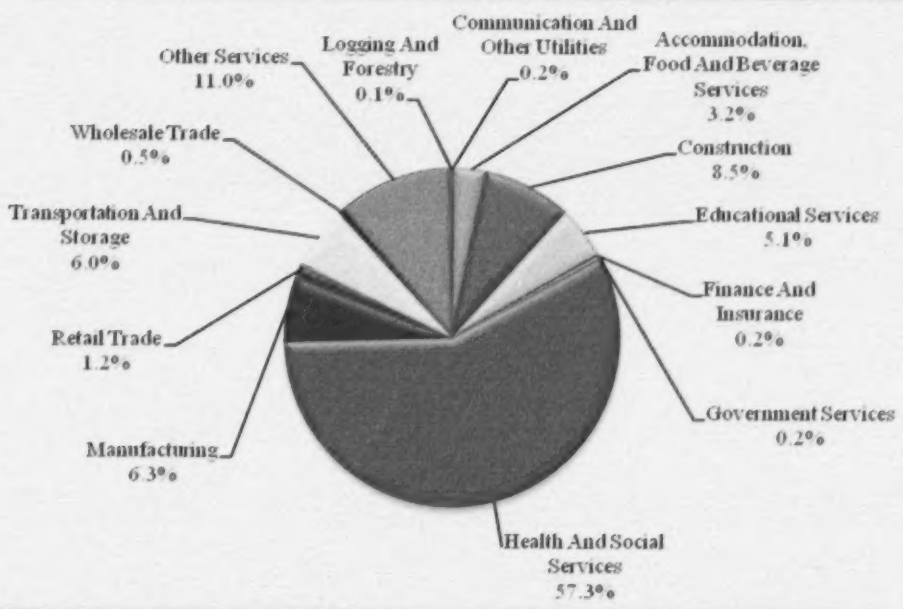

Chart 1C: Certification Cancellations (s.33(2)) Granted - Analyzed by Type of Industry (Number of Applications)

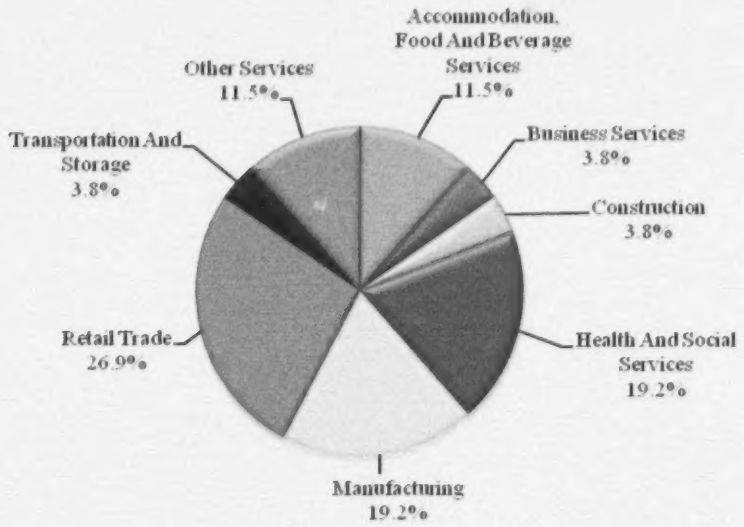

Chart 1D: Certification Cancellations (s.33(2)) Granted - Analyzed by Type of Industry (Number of Employees)

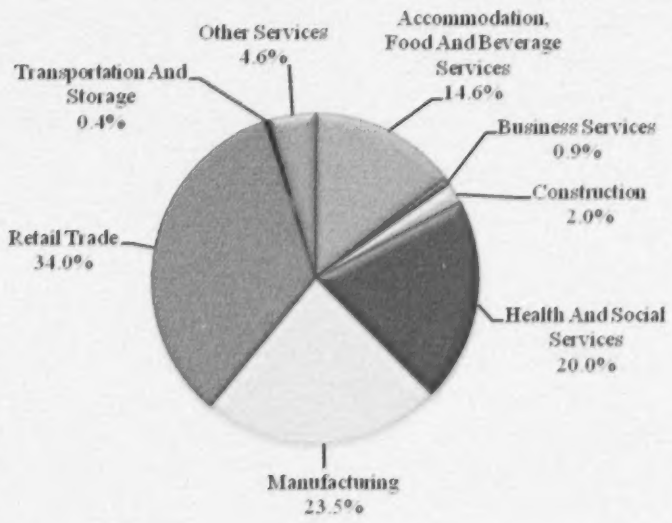

TABLE 1B: Certification Applications and Certification Cancellations Under s. 33(2) Filed / Granted in 2013 - Analyzed by Union

UNION NAME (Names have been abbreviated: where possible, the commonly used, shortened form appears)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Filed[2]	Number of Applications Granted	Number of Applications Filed[2]	Number of Applications Granted
BCGEU (not including Brewery Workers)	11	9	8	7
Boilermakers	1	0	0	0
Carpenters (not including CMAW or CAST councils)	4	4	0	0
Canada West Construction Union (CWCU)	3	2	0	0
CAW	1	1	3	2
CEP	3	2	0	0
CLAC	6	5	0	0
CUPE	3	1	4	2
Electrical Workers (IBEW)	6	2	0	0
Food and Commercial Workers (UFCW)	4	4	7	6
Glazier & Glass Workers	0	0	1	1
Heat and Frost	1	1	0	0
PIPSC BCFNHA Group	1	0	0	0
Hospital Employees Union (HEU)	5	2	2	0
Health Sciences Association (HSA)	3	3	0	0
Hotel Employees (UNITE HERE)	0	0	4	2
Iron Workers	1	0	0	0
Labourers	2	0	0	0
Marine Workers	1	1	0	0
Nurses (BCNU)	65	57	0	0
Nurses (UPN)	13	4	0	0
Office and Professional Employees (COPE)	8	3	0	0
Operating Engineers (IUOE)	13	6	1	1

TABLE 1B: Certification Applications and Certification Cancellations Under s. 33(2) Filed / Granted in 2013 - Analyzed by Union

UNION NAME (Names have been abbreviated where possible, the commonly used, shortened form appears)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Filed[2]	Number of Applications Granted	Number of Applications Filed[2]	Number of Applications Granted
Plumbers & Refrigeration Workers	2	1	1	1
Post-Secondary Educators (FPSE)	5	2	0	0
PPWC	7[3]	1	2	2
PSAC	1	0	0	0
Canadian Union of Skilled Workers	1	1	0	0
Steelworkers	13	6	0	0
Teamsters	11	4	3	2
Transit Police Professional Association	2	0	0	0
Unifor	1	1	0	0
Total	**196[4]**	**123**	**36**	**26**

[1] Only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table. Thus, the number of applications filed and/or granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

[2] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

[3] Includes two raid applications to expand the bargaining unit of an existing certification.

[4] Adding the individual numbers in the column produces a larger number because two applications were filed jointly by more than one union

TABLE 2: Certification Applications and Certification Cancellations Under s. 33(2) Filed / Decided in 2013

Type of Application		Filed[1]	Granted	Dismissed	Total Decided
Total Certification Applications	Number of Applications	196	123	69	192
	Number of Employees[2]	6134	2869	2309	5178
Certification Applications for Previously Unorganized Employees	Number of Applications	115	65	17	82
	Number of Employees	4097	1747	1115	2862
Certification Applications for Organized Employees	Number of Applications	81[3]	58	52	110
	Number of Employees	2037[3]	1122	1194	2316
Total Applications to Cancel a Certification Brought by Employees under s. 33(2)[4]	Number of Applications	36	26	5	31
	Number of Employees[5]	802	459	211	670

[1] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

[2] The number of employees on an application for certification is based on the information supplied by the union on the application form. Variances do occur between the time of application and the time of disposition of the application. The estimate could include some multiple counting where more than one union applied to cover the same group of employees, or where the same union made alternative applications to cover the same group of employees.

[3] Includes two raid applications to expand the bargaining unit of an existing certification (covering a total of 86 employees).

[4] Since only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table, the number of applications filed and/or decided may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of certification cancellations by applicant type.

[5] The number of employees on an application to cancel a certification is based on the number of eligible voters on the Return of Poll signed by the returning officer. The number of employees on an application for which a Return of Poll is either not available or not applicable (in particular, for the number of applications Filed) is based on the bargaining unit size listed in the report of the Industrial Relations Officer.

TABLE 2A: Certification Applications and Certification Cancellations Under s. 33(2) Granted in 2013 - Analyzed by the Size of the Bargaining Unit

Size of Bargaining Unit (Number of Employees)	Certification Applications		Certification Cancellations[1]	
	Number of Applications Granted	Percentage of Applications Granted	Number of Applications Granted	Percentage of Applications Granted
1 to 10	51	42%	9	34%
11 to 20	27	22%	5	19%
21 to 30	13	11%	9	35%
31 to 40	9	7%	1	4%
41 to 50	8	7%	2	8%
51 to 60	4	3%	0	0%
61 to 70	3	2%	0	0%
71 to 80	3	2%	0	0%
81 to 90	1	1%	0	0%
91 to 100	3	2%	0	0%
101 to 200	1	1%	0	0%
Over 200	0	0%	0	0%
Total	**123**	**100%**	**26**	**100%**

[1] In order to accurately reflect the number of employees per granted application, only those certification cancellation applications brought by employees under s. 33(2) of the *Labour Relations Code* are included in this table. Thus, the total number of applications granted may not equal the corresponding figure from the Certification Cancellations category in TABLE 1. See TABLE 3 for a breakdown of Certification Cancellations by applicant type.

Chart 2A: Certification Applications Granted in 2013 - Analyzed by Size of Bargaining Unit (Percentage of Applications)

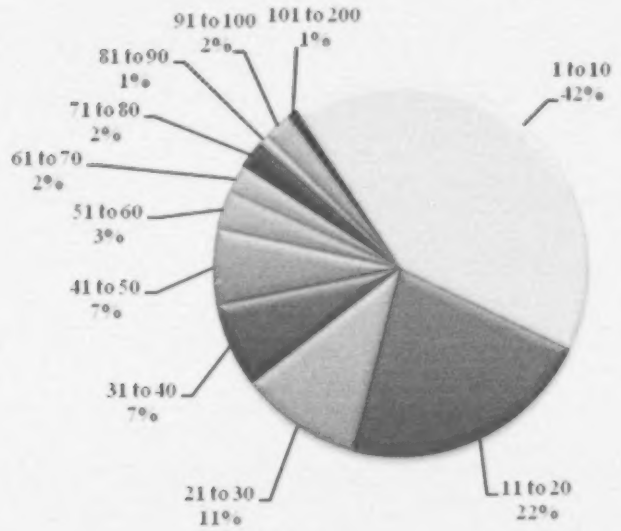

Chart 2B: Certification Cancellations (s.33(2)) Granted in 2013 - Analyzed by Size of Bargaining Unit (Percentage of Applications)

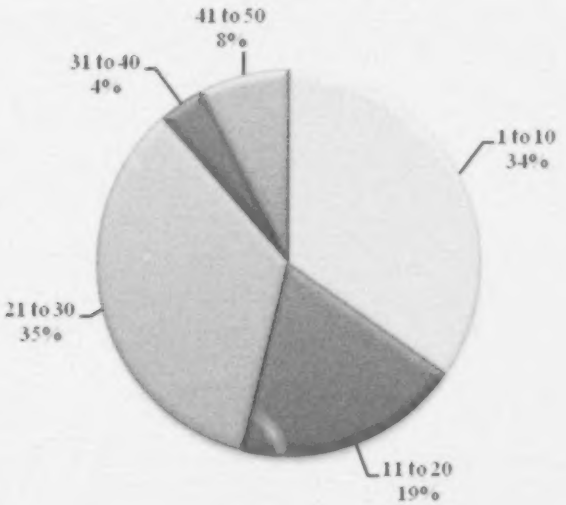

TABLE 2B: Certification Applications Granted Between 1990 and 2013 by Size of the Bargaining Unit

Year	Number and Percentage of Certification Applications						
	1 to 20 Employees		21 to 50 Employees		Over 50 Employees		Total
1990	181	72.4%	47	18.8%	22	8.8%	250
1991	173	70.9%	47	19.3%	24	9.8%	244
1992	130	66.0%	47	23.9%	20	10.1%	197
1993	353	69.4%	102	20.0%	54	10.6%	509
1994	292	66.9%	86	19.7%	59	13.4%	437
1995	253	64.4%	100	25.4%	40	10.2%	393
1996	312	72.5%	80	18.6%	38	8.9%	430
1997	285	69.6%	71	17.4%	53	13.0%	409
1998	233	67.0%	65	18.7%	50	14.3%	348[1]
1999	239	65.8%	65	17.9%	59	16.3%	363[2]
2000	169	64.3%	45	17.1%	49	18.6%	263
2001	105	58.0%	40	22.1%	36	19.9%	181
2002	62	70.4%	13	14.8%	13	14.8%	88
2003	54	72.0%	11	14.7%	10	13.3%	75[3]
2004	58	65.9%	17	19.3%	13	14.8%	88
2005	170	63.9%	62	23.3%	34	12.7%	266[4]
2006	58	65.2%	21	23.6%	10	11.2%	89
2007	72	59.5%	26	21.5%	23	19.0%	121
2008	62	64.6%	13	13.5%	21	21.9%	96
2009	43	48.9%	20	22.7%	25	28.4%	88
2010	42	58.3%	13	18.1%	17	23.6%	72
2011	34	58.6%	15	25.8%	9	15.5%	58[5]
2012	37	55.2%	15	22.4%	15	22.4%	67
2013	78	63.5%	30	24.4%	15	12.1%	123

[1] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1998 amounts to 349.

[2] One single certification application resulted in the issuance of two individual certifications; thus the total of certifications granted in 1999 amounts to 364.

[3] Five separate certification applications for the same employee bargaining unit were granted and simultaneously consolidated resulting in the issuance of a single certification; thus the total number of new certifications granted for a bargaining unit size between 1 and 20 employees is 50 and the total number of certifications granted in 2003 is 71.

[4] A number of applications to certify separate units were amended at some time in the process prior to disposition to certify a consolidated unit(s). A further application was granted and two certifications issued as a result. In total, in 2005, 266 certification applications were granted resulting in 249 certifications being issued.

[5] Three certification applications to certify separate units were amended at some time in the process prior to disposition to certify a consolidated unit (a single certification was issued as a result). In total, in 2011, 58 certification applications were granted resulting in 56 certifications being issued.

TABLE 3: Applications to Cancel Certifications Disposed of in 2013 and 2012						
Type of Applicant (and Application)	Year	Granted	Dismissed	Not Proceeded With	Withdrawn	Total
Filed by Employee(s) (s. 33)	2013	26	5	5	3	39
	2012	21	3	4	5	33
Filed by Employee(s) (s. 142 - Partial Decertification)[1]	2013	7	3	1	4	15
	2012	2	4	0	2	8
Filed by Employer(s)	2013	2	2	0	0	4
	2012	1	0	0	0	1
Filed by Union(s)	2013	1	1	0	0	2
	2012	2	0	0	0	2
Filed by Employer(s) / Union(s)	2013	1	0	0	0	1
	2012	1	0	0	0	1
Total	**2013**	**37**	**11**	**6**	**7**	**61**
	2012	**27**	**7**	**4**	**7**	**45**

[1] Applications filed under s. 142 for Partial Decertification are included in TABLE 1 under the category Certification Variances; therefore, subtracting the number of applications filed by employees under s. 142 from the Total number of applications disposed of in TABLE 3 will equal the number of applications disposed of in TABLE 1 for the Certification Cancellations category.

TABLE 4: Reconsiderations Disposed of in 2013

Type Of Application Being Reconsidered	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Duty to Bargain in Good Faith (s.11)	1	0	1	0	0	2
Duty of Fair Representation (s. 12)	11	0	0	1	0	12
Other Unfair Labour Practice Complaint (ss. 5-9)	0	0	2	0	0	2
Religious Exemption (s.17)	0	0	1	0	0	1
Certification	4	0	1	0	0	5
Certification Cancellation	2	2	2	0	0	6
Common Employer	1	0	0	0	0	1
Part 5	0	0	0	2	0	2
Essential Services Designation Order	1	0	0	0	0	1
Review of Arbitration Award	2	1	2	0	0	5
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s.139)	1	0	1	0	0	2
Ruling re: Stay (s.134)	1	0	0	0	0	1
Ruling re: Procedure	2	0	0	0	0	2
Ruling re: Remedy	0	0	3	0	0	3
Ruling re: Extension	1	0	0	0	0	1
Ruling re: Interested Party Standing	0	0	1	0	0	1
TOTAL	**27**	**3**	**14**	**3**	**0**	**47**

Appellant	Leave Denied	Dismissed	Granted	Withdrawn	Not Proceeded With	Total
Employer(s)	5	2	7	1	0	15
Union(s)	11	1	3	1	0	16
Employee(s)	11	0	4	1	0	16
TOTAL	**27**	**3**	**14**	**3**	**0**	**47**

Chart 4: Types of Applications Being Reconsidered (Disposed of in 2013)

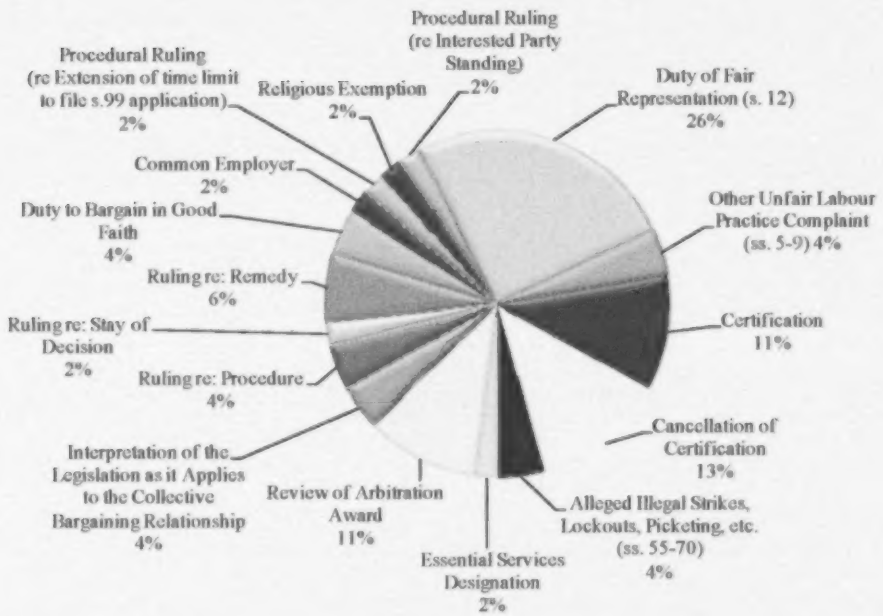
Procedural Ruling (re Interested Party Standing) 2%
Procedural Ruling (re Extension of time limit to file s.99 application) 2%
Religious Exemption 2%
Duty of Fair Representation (s. 12) 26%
Common Employer 2%
Other Unfair Labour Practice Complaint (ss. 5-9) 4%
Duty to Bargain in Good Faith 4%
Ruling re: Remedy 6%
Certification 11%
Ruling re: Stay of Decision 2%
Ruling re: Procedure 4%
Cancellation of Certification 13%
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship 4%
Review of Arbitration Award 11%
Alleged Illegal Strikes, Lockouts, Picketing, etc. (ss. 55-70) 4%
Essential Services Designation 2%

TABLE 5: "Success" Rate of Reconsiderations Disposed of Between 2003 and 2013

Year	Total Applications Disposed of	Withdrawn / Not Proceeded With	Processed to a Final Decision	Resulted in a Revision of the Original Decision	"Success" Rate of Reconsiderations
2003	111	11	100	19	19%
2004	112	6	106	12	11%
2005	87	11	76	8	11%
2006	72	9	63	8	13%
2007	65	11	54	5	9%
2008	47	6	41	6	15%
2009	48	4	44	8	18%
2010	51	2	49	10	20%
2011	45	2	43	6	14%
2012	59	2	57	15	26%
2013	47	3	44	14	32%

TABLE 6: "Success" Rate of Reviews of Arbitration Awards Disposed of Between 2003 and 2013

Year	Total Applications Disposed of	Withdrawn / Not Proceeded With	Processed to a Final Decision	Resulted in a Revision of the Original Decision	"Success" Rate of Reconsiderations
2003	55	7	48	10	21%
2004	58	8	50	11	22%
2005	36	4	32	6	19%
2006	50	7	43	11	26%
2007	26	3	23	5	22%
2008	37	7	30	7	23%
2009	39	6	33	4	12%
2010	31	5	26	8	31%
2011	35	8	27	2	7%
2012	59	4	55	7	13%
2013	15	1	14	1	7%

Chart 5: "Success" Rate - Reconsiderations

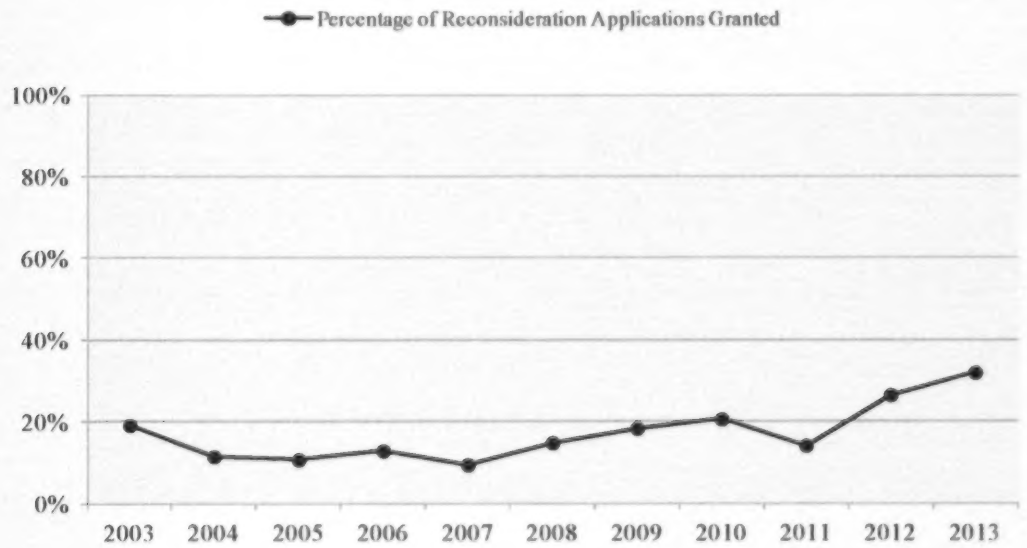

Chart 6: "Success" Rate - Review of Arbitration Award

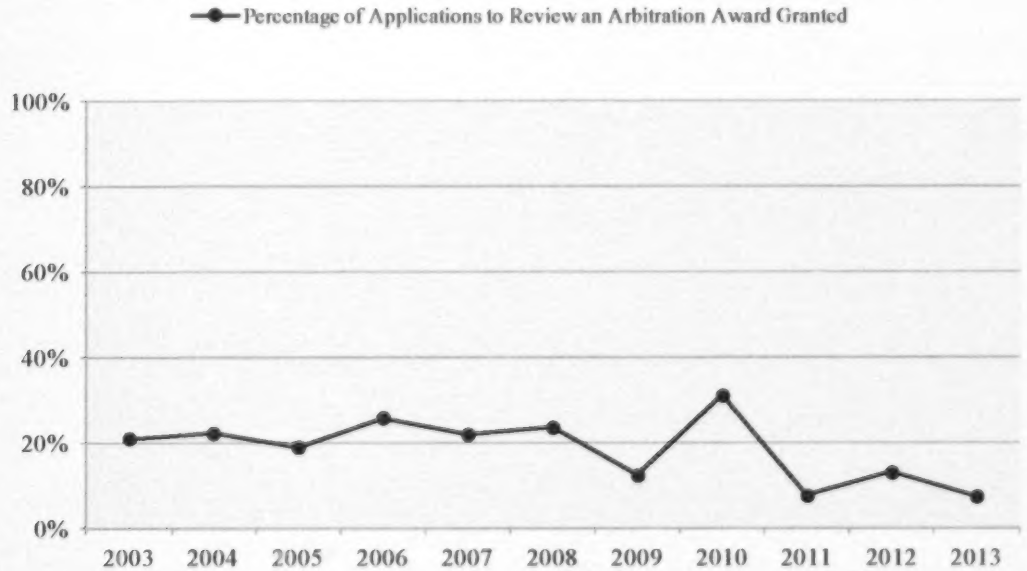

TABLE 7: Applications and Complaints Filed in 2013 - Analyzed by Applicant Type

Type of Application	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total[1]
Complaints of Unfair Labour Practices					
Complaints Regarding Internal Union Affairs (s. 10)	0	3	2	0	5
Complaints Regarding Duty to Bargain in Good Faith (s. 11)	10	16	0	0	26
Complaints Regarding Duty of Fair Representation (s. 12)	0	0	54	0	54
Other Unfair Labour Practice Complaints (ss. 5-9)	5	131	3	0	138
Religious Exemption (s. 17)	0	0	6	0	6
Certification Applications (ss. 18, 19 and 28)	0	198	0	0	198
Certification Variances (ss. 28 and 142)	20	147	14	0	180
Certification Cancellations (ss. 33 and 142)	7	1	41	0	48
Cancellation of a Voluntary Recognition (s. 34)	0	0	4	0	4
Permission to Alter Conditions of Employment	1	0	0	0	1
Alleged Unlawful Alteration of Employment Terms and Conditions (ss. 32 and 45)	1	12	0	0	13
Declaration of Successor Status					
Successor Employer (s. 35)	14	46	0	0	60
Successor Union (s. 37)	0	31	0	0	31
Common Employer (s. 38)	1	9	0	0	10
Accreditation Variances (ss. 43 and 142)	3	0	0	0	3
Alleged Failure to Execute or Comply with a Collective Agreement (s. 49)	1	12	0	0	12
Facilitator (s. 53(3))	14	14	0	0	16
First Collective Agreement (s. 55)	2	5	0	0	7
Appointment of a Mediation Officer (s. 74)	46	51	0	0	96
Collective Agreement Arbitration Bureau (CAAB)					
Section 86 (Appointment of Arbitrator)	*1*	*56*	*0*	*0*	*58*
Section 87 (Appointment of Settlement Officer)	*3*	*23*	*0*	*0*	*25*
Section 104 (Appointment of Arbitrator)	*8*	*176*	*0*	*0*	*184*
Section 105 (Appointment of Mediator-Arbitrator)	*4*	*4*	*0*	*0*	*4*
Combined CAAB Sections	***16***	***259***	***0***	***0***	***271***
Part 5 Applications (Strikes, Lockouts, Picketing, etc.) (ss. 57-67 and ss. 69-70)	34	14	0	0	48

TABLE 7: Applications and Complaints Filed in 2013 - Analyzed by Applicant Type

Type of Application	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total[1]
Replacement Workers (s. 68)	0	7	0	0	7
Essential Service Designations (s. 72)	0	0	0	25	25
Last Offer Vote (s. 78)	15	0	0	0	15
Review of Arbitration Award (s. 99)	8	11	3	0	22
Interim Order (s. 133(5))	9	6	0	0	15
File an Order in Supreme Court (s. 135)	13	8	0	0	21
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (s. 139)	13	31	0	0	38
Reconsideration of a Decision (s. 141)	10	16	15	0	41
Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Legislation)	0	5	0	0	5
Miscellaneous	30	56	2	0	85
TOTAL	**273**	**1089**	**144**	**25**	**1501**

[1] Totals by applicant do not equate with total applications because certain applications were filed jointly, by more than one type of party.

TABLE 8: Time Required to Process Certain Applications Disposed of in 2013			
Type of Application	Number of Applications Disposed of[1]	Average Number of Days	Median Number of Days
Unfair Labour Practice Complaints Under S.6 of the *Labour Relations Code* Where a Dismissed Employee is Involved	31	80	43
Complaints Regarding Duty of Fair Representation (S.12)	45	113	99
Certification Applications (Ss.18, 19, 28)	223	85	32
Certification Cancellations (S.33(2))	34	30	12.5
Declaration of Successor Employer (S.35)	51	130	30
Common Employer (S.38)	16	424	202
Review of Arbitration Award (S.99)	15	58	50
Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship (S.139)	44	210	92
Reconsideration of a Decision (S.141)	47	56	36

[1] Does not include applications that were not proceeded with (NPW) due to incorrect or insufficient information supplied on the application.

TABLE 9: Officer Assignments Completed in 2013							
	Assignment Outcome						
Type of Application / Complaint	Settled/ Withdrawn	Resolved Issues / Assisted at Hearing	Narrowed Issues /Assisted at Hearing	To Adjudication (No Informal)	Report of Investigation	Other[1]	Total
Part V (ss.57 to 70)[2]	9	0	2	3	0	3	17
Unfair Labour Practice (ss.5 to 11)[3]	38	0	4	10	0	1	53
Certification & Variance to Expand the Bargaining Unit[4]	10	41	40	3	0	0	94
Decertification & "Partial Decertification"[5]	3	11	6	2	0	0	22
Collective Agreement Arbitration (CAAB) (ss.86, 87, 104, 105)[6]	38	0	0	0	0	10[7]	48
Other	18	1	1	2	10	0	32
TOTAL	**116**	**53**	**53**	**20**	**10**	**14**	**266**

[1] Includes Consent Order issued.
[2] Includes complaints regarding strikes, lockouts, picketing, etc.
[3] Excludes duty of fair representation (s.12)
[4] In reports prior to 2001, the number of certification & expanded bargaining unit applications Settled / Withdrawn were included in the Resolved Issues / Assisted at Hearing assignment outcome category.
[5] Prior to 2003 applications for 'partial decertification' were included under Other types of applications.
[6] Reporting of assignments under the Collective Agreement Arbitration provisions of the *Labour Relations Code* first appears in the 2003 annual report.
[7] Includes nine assignments closed with matter proceeding to arbitration.

TABLE 10: Requests for Automatic Certification Pursuant to s. 14(4)(f) of the *Labour Relations Code* as a Result of an Alleged Unfair Labour Practice Violation
(Previously s. 8(4)(c) of the *Labour Relations Code* and the *Industrial Relations Act*)

Year	Requested	Granted
1977	25	1
1978	17	1
1979	25	1
1980	22	0
1981	34	2
1982	15	2
1983	18	0
1984	21	3
1985	16	2
1986	18	2
1987	17	0
1988	10	0
1989	10	0
1990	18	3
1991	20	1
1992	32	6
1993	31	2
1994	31	2
1995	35	0
1996	41	1
1997	52	3
1998	40	0
1999	51	0
2000	21	1
2001	9	0
2002	12	3
2003	13	0
2004	8	1
2005	7	1
2006	8	0
2007	10	1
2008	17	2
2009	16	0

TABLE 10: Requests for Automatic Certification Pursuant to s. 14(4)(f) of the *Labour Relations Code* as a Result of an Alleged Unfair Labour Practice Violation
(Previously s. 8(4)(c) of the *Labour Relations Code* and the *Industrial Relations Act*)

Year	Requested	Granted
2010	18	1
2011	9	0
2012	9	3[1]
2013	11	0
TOTAL	767	45

These requests relate to *Other Unfair Labour Practice Complaints* and are not included under Applications for Certification.
Note: Figures for 1993 to 1995 were not included in the Annual Reports for these years.

[1] One certification issued as a result of reconsideration.

Chart 10: Requests for Automatic Certification Pursuant to s.14(4)(f) of the *Labour Relations Code* Filed and Granted

Table 11: Complaints Regarding Duty of Fair Representation Disposed of Between 2003 and 2013

Year	Total Applications Disposed of	Not Proceeded With	Settled	Processed to a Final Decision	Granted	Dismissed
2003	192	53	28	111	5	106
2004	132	40	13	79	8	71
2005	101	44	10	47	5	42
2006	99	34	9	56	1	55
2007	90	39	9	42	0	42
2008	70	29	7	34	2	32
2009	96	36	1	59	5	54
2010	82	26	5	51	5	46
2011	74	17	1	56	4	52
2012	75	24	2	49	2	47
2013	55	10	0	45	1	44